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House of Representatives

The House was not in session today. Its next meeting will be held on Tuesday, May 2, 2000, at 12:30 p.m.

Senate

WEDNESDAY, APRIL 26, 2000

The Senate met at 10:02 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Dear God, so often in our prayers, we present You with our own agendas. We ask for guidance and strength and courage to do what we have already decided. Usually, what we have in mind is to receive from You what we think we need to get on with our prearranged plans. Often we present our shopping list of blessings that we have in mind for our projects, many of which we may not have checked out with You. Sometimes we have little time to talk with You or listen to You. The blessings we receive are empty unless we also receive a deeper fellowship with You. Help us to think of prayer throughout this day as simply reporting in for duty and asking for fresh marching orders. We want to be all that You want us to be, and we want to do what You have planned for us. May this opening prayer be the beginning of a conversation with You that lasts all through the day. Help us to attempt something we could not do without Your power. You are our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE

The Honorable MIKE DEWINE, a Senator from the State of Ohio, led the Senate in the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The distinguished Senator from Ohio.

MORNING BUSINESS

Mr. DEWINE. Mr. President, on behalf of Majority Leader LOTT, I ask unanimous consent that the Senate be in a period for morning business until 12 noon today, with Senators permitted to speak for up to 5 minutes each, with the following exceptions: Senator LOTT, or his designee, 40 minutes; Senator HELMS, 20 minutes; Senator DASCHLE, or his designee, 60 minutes.

Mr. REID. Reserving the right to object.

The PRESIDENT pro tempore. The able Senator from Nevada.

Mr. REID. Reserving the right to object, I want Senator DEWINE to go through the rest of the schedule.

SCHEDULE

Mr. DEWINE. Mr. President, following morning business, it is expected the Senate will receive the veto message on the nuclear waste bill from the White House. Under the rule, when that message is received, the Senate will immediately begin debate on overriding the President's veto. It is hoped an agreement can be made with regard to debate time so that a vote will be scheduled.

As a reminder, the cloture motion on the substitute amendment to the marriage tax penalty bill is still pending. That vote will occur immediately following the adoption of the motion to proceed to the victims' rights resolution. Therefore, votes are possible during this afternoon's session of the Senate. Senators will be notified as those votes are scheduled.

I thank my colleagues for their attention.

Mr. REID. Mr. President, I say to my friend that the veto message from the President will not arrive here until this evening sometime. So I do not think we can plan on doing anything with that today.

I also say to the majority, as soon as a determination is made as to how much time the majority wants, I assume through Senator MURKOWSKI, we will be willing to enter into a time agreement with the proponents of this veto override. I hope it will be the majority leader's wish that we can do this sometime tomorrow. As I indicated earlier, the veto will not arrive until sometime this evening.

Having said that, I withdraw my objection to the unanimous-consent request allowing morning business until 12 o'clock today.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DEWINE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Mr. TORRICELLI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. DEWINE). Without objection, it is so ordered.

THE EPIDEMIC OF GUN VIOLENCE

Mr. TORRICELLI. Mr. President, 2 weeks ago it was a Michigan nursing home and Monday night it was a shootout at the National Zoo here in Washington, D.C. The epidemic of gun violence has become something that affects all Americans, not only those living in our inner cities.

Whenever we open our morning newspapers and read about these tragedies, we are left to wonder whether our loved ones might be the next victims and whether our own community, our own neighborhood, and our own home could be tomorrow's headlines.

The devastation that guns have brought to our families and to our communities has been well documented, but the statistics bear repeating. Only with an understanding of the dimensions of the problem will we ever bring real change.

In 1997 alone, more than 32,000 Americans were shot and killed, including 4,000 children.

The American Academy of Pediatrics estimates by the year 2006 firearms will become the largest single killer of our own children in the United States.

The economic cost of every shooting death in society—if it is necessary to measure it in these cold terms—is $1 million per victim in medical care, police services, and lost productivity.

The American public has grown tired of hearing of these appalling statistics. And so have I. More importantly, they have grown tired of a Congress that does nothing about it, with no real efforts to stop this bloodshed.

Last April, it seemed that the senseless death of 12 students at Columbine High School had finally brought the Nation to a point of judgment. It even appeared to me that this Congress had finally had enough. The shocking and heartbreaking nature of the tragedy, which was really unlike anything in its dimensions that the Nation had faced before, appeared to convince the Congress that it could no longer ignore the problem.

Indeed, this Senate, in one of its finer moments since I became a Member of this institution, courageously passed a juvenile justice bill that included three basic gun safety measures: It banned the possession of assault weapons by minors; it closed the gun show loophole; and it mandated safety locks on all firearms.

Originally, we had sought a more comprehensive solution that would restrict gun sales to one per month, a reasonable proposal; reinstate the Brady waiting period, proven to be an effective proposal; and regulate guns as consumer products, certainly a worthwhile proposal.

But we limited ourselves to those other basic provisions in the interests of a consensus, with a belief that they were so sensible and so necessary that there could be no reasonable opposition. So before the debate even began, the proposals had been limited to what should have represented a consensus view, leaving the more ambitious but still reasonable proposals for another day.

But now, with the 1-year anniversary of the Columbine shootings having passed, it is clear that our confidence, perhaps even our strategy, was misguided. Today, the bill languishes in conference—an unfortunate reminder that no gun law is too important or too responsible that it cannot be opposed by the National Rifle Association.

In place of changes, the Republican leadership and the NRA have offered the American public flimsy rhetoric that blames gun violence on poor enforcement of existing gun laws. The NRA erroneously claims that prosecutions have plummeted under the Clinton administration when, in fact, these prosecutions rose by 25 percent last year.

This campaign provides nothing but further evidence that this agenda is not aimed at protecting our communities, but it is aimed at protecting the status quo—a status quo that most Americans a long time ago decided was unacceptable.

No one disputes the fact that enforcement is a critical element of any response to this problem. That is why, indeed, on this side of the aisle we have supported 1,000 new ATF agents and 1,000 new prosecutors to deal with gun violence.

But as much as we have done, we can always do more; while laws are being enforced, they can be enforced better. But no one can reasonably believe that enforcement alone constitutes a comprehensive or sufficient answer to this national epidemic.

Better enforcement of every gun law ever written will not prevent the 1,500 accidental shootings that are occurring every year. Enforcement of every gun law on the books would not prevent a 6-year-old boy from bringing his father's gun to school and killing a 6-year-old classmate. Nor does it address the fact that 43 percent of parents leave their guns unsecured, and 13 percent have unsecured guns loaded or with ammunition nearby. Enforcing gun laws, vigorous prosecutions, would answer none of those problems.

These realities point to the need for a broad approach to gun control. The provisions contained in the juvenile justice bill are the first steps, but they are important first steps.

The real answer—perhaps the challenge that should have come to this Congress last year—is to bring the entire issue to the Senate, and build upon what is already in the juvenile justice bill by also challenging the Senate to restrict the sale of firearms to one per month, a simple provision which would help eliminate the problem under which my State is suffering, where people go to other States and buy large numbers of firearms and transport them to the cities of New Jersey, selling them, often to children, out of the trunks of cars.

Second, reinstitute the Brady waiting period on handgun purchases to prevent individuals in fits of rage and passion from acting upon their emotions with a gun. Separate the rage of the individual from the purchase of the firearm, giving a cooling off period that can and would save lives. Most important, we must do on the Federal level what Massachusetts recently did on the State level: regulate firearms as consumer products. Firearms remain the only consumer product in America not regulated for safety, a strange, inexplicable, peculiar exception to the law because they are inherently the most dangerous consumer products of them all.

It is, indeed, an absurd, inexplicable contradiction that a toy gun remains regulated but a real gun is not. Consumer regulation would ensure that, as every other product in America, guns are safely designed, built, and distributed, not only for the benefit of the public but also for the people who purchase them. Indeed, who has a greater interest in gun safety by design and construction than the people who buy guns? If the materials are imperfect, if they do not work properly, it is the gun owner who is going to be hurt.

Together these three measures would make a real difference in ending gun violence. Would they end all gun violence? Would they end all crime? Indeed, not. No single provision, no amendment, no law, no single action could eliminate all gun violence or most gun violence. But if we await a perfect solution, we will act upon no solution. Ending the problems of violence and guns in America is not something that will be done by one Congress or one legislative proposal in any one year or probably in any one decade. It is successive ideas in succeeding Congresses where people of goodwill put the public interest first and look for real and serious answers to this epidemic of violence.

As long as the NRA is allowed to dominate the gun debate in place of common sense and compassion, the Columbines of the future are sadly, even tragically, inevitable. It is time for Congress to finally muster the courage to act responsibly on this issue out of concern for our children. Out of respect for the memories of those who have died, we can and should do nothing less.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I ask unanimous consent to speak in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE POWER OF LEADERSHIP

Mr. DURBIN. Mr. President, I thank my colleague from New Jersey for raising this important issue of gun safety.

One of the most important powers of the leadership on Capitol Hill is the power to schedule a hearing, the power to bring a bill to the floor, the power to tell a committee to bring a bill forward so it can be considered.

Currently, the Republicans are in control of the Senate as well as the House of Representatives, and they have this awesome congressional power and responsibility. Over the last several days, there have been calls from the leadership, the Speaker of the House as well as the majority leader of the Senate, that this Senate and House basically drop what they are doing and start gathering information and documentation for an emergency hearing on the question of what occurred in Miami, FL, last Saturday morning. That is to the exclusion of a lot of other things that could be considered by the Congress of the United States.

The Hill newspaper and others have talked about this Republican fervor over investigating Attorney General Janet Reno and others about the Elian Gonzalez controversy. This is an important issue. It has certainly captured the imagination of many Americans and the attention of the press and a lot of politicians. I think it is worth looking into to consider the procedures that have been used and could be used. But would we step back and say, when we look at the state of America today, that this is the single most important thing that we should be doing right here on Capitol Hill? My guess is, in my home State of Illinois, the State of Ohio, as well as many other States, families might suggest: Before you get into that, could you take a look at education? Could you take a look at reducing violent crime in our country? Could you consider a Patients' Bill of Rights so if someone gets sick in my family, the doctor can make the medical decision instead of the insurance company? And while you are at it, my mother or grandmother is on Medicare and can't pay for her prescription drugs. Could you take a look at that incidentally? Is that something you could put on your priority list?

Quite honestly, those things will come out in polls across America as things about which people are concerned. They would like us to drop, perhaps, our focus on a 6-year-old boy from Cuba for just a few minutes and think about education, think about reducing gun violence in America, a Patients' Bill of Rights, a prescription drug benefit. Sadly, those items are not on the agenda. They don't capture the attention of the Republican leadership. Their attention is on this 6-year-old boy.

I hope we can focus the attention of Congress on some other issues. I hope we can earn our pay for a change and consider some bills and some laws that just might improve the quality of life of families across America. I kind of thought that was part of our job. We were elected from 50 different States to come here to show some leadership and respond to the people back home to make America a better place to live.

Senator TORRICELLI of New Jersey talked about gun safety. We are just a few days away from the first anniversary, the sad anniversary of the tragedy at Columbine High School. That focused America's attention. It shocked us to believe that a high school in the suburbs of Denver could end up having this tragedy visited upon it and 12 children who got up and went to school never came home.

We saw that the two students who started this rampage got their guns from gun shows. We decided in Congress we had to do something. So we brought a bill forward, a gun safety bill, that had three basic provisions in it. The bill said, if you buy a gun at a gun show, we want to know whether you are legally disqualified from owning a gun. Of course, if you buy it from a gun dealer, we already make that inquiry. We want to know if you have a criminal record. We want to know if you happen to be a fugitive, a stalker, a wife beater, someone who is ineligible because they are too young, someone who has a history of violent mental illness. If we are going to preserve the second amendment right to own and bear arms, many of us believe we want to keep guns out of the hands of criminals and children.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. DURBIN. I ask unanimous consent for an additional 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. The sportsmen and hunters in the State of Illinois and those I speak to around the country tend to agree. They want to use their guns legally and safely. They want to keep them away from criminals and children.

We put in the provision of this law a background check at gun shows. How frequent are gun shows? Come to downstate Illinois; they are pretty frequent. They have them at civic centers, all sorts of different places. We are not the leading State for gun shows. The leading State for gun shows is Texas. I will return to that in a moment.

Secondly, we said, let's have trigger locks sold with guns. As Senator TORRICELLI said earlier, 43 percent of guns are sitting around residences within easy access of children. How many times do you pick up the paper and read about a kid playing with a gun, shooting himself or a playmate? How many parents say, we don't have guns in our house because we think it is dangerous. But do you know whether your playmate's family has guns lying around. Who is so naive to believe that children never find Christmas gifts or guns? They go looking and they find them. Sometimes tragedy results.

We want trigger locks so the guns are secure, so a child who picks up that gun can't harm himself or others. Is this a radical idea? I think it is as sensible an idea as putting brakes on a car.

Finally, Senator FEINSTEIN added an amendment which said we don't want to import high-capacity ammo clips from overseas that can only be used for the semiautomatic and automatic weapons to sweep bullets in every direction. I have said that if you need a semiautomatic weapon or an assault weapon to shoot a deer, you ought to stick to fishing. Far too many people in this country think this is an invasion of second amendment rights. Too many people argue that we shouldn't even have these reasonable regulations in gun ownership.

We passed this bill that I am talking about on the floor of the Senate by one vote. Vice President Gore, as is his right under the Constitution, came to this Chair and voted. We passed the bill and sent it to the House. That was over 10 months ago. The bill, of course, was then subject to the National Rifle Association and all of the gun lobby beating up on it. They passed a terrible alternative to it. It has now been sitting in a conference committee month after weary month. We cannot summon the political will or courage to bring a gun safety bill out here to try to make the streets, the schools, and, yes, the zoos of America safe for families and children. No. We want to have an emergency hearing on a 6-year-old boy from Cuba. We want to drop everything. We want to subpoena all of the documents. This summons is more important. I think they are wrong.

When it comes to education, we have tried to focus on smaller class sizes so teachers can spend more time with kids who need help. We have tried to focus on afterschool programs so during that period of time when the school let's out before mom and dad get home kids have a chance to stay in a supervised situation at school so they can be tutored; if they are falling behind, enrichment classes if they are kids who are doing well; play a little sports but do something under supervision; summer school for the same reason—so that education starts reflecting the reality of family life.

We think we can focus as well on a Patients' Bill of Rights so we can say that doctors will make medical decisions and not insurance company clerks. Every medical group in America, nurses and doctors—all of them—support us. We would like to see the decisions on the future of each family's health made by health care professionals and not by people looking at the bottom line of an insurance company. We believe a prescription drug benefit is a high priority.

I had hearings across Illinois, and I have seen it across the Nation. There are people who are literally deciding between food and medicine. Elderly and disabled people can't afford the

medicine their doctors prescribe. So they do not fill the prescriptions. They cut the pills in half. They do things they shouldn't do, and they get sick. When they get sick, what happens? They end up in a hospital. If they end up in a hospital, guess what. Medicare will pay the bills now. We wouldn't pay for the pills to keep them out of the hospital but we will pay for the pills when they get sick and go to a hospital.

We think a prescription drug benefit makes sense. We think that is what we should be debating on the floor of the Senate. But we do not. Another week passes by. We consider a lot of other things, and families across America return to ask us: Where are your priorities? What are you thinking about?

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DURBIN. I will conclude. I thank you, Mr. President, for the time you have given me this morning and hope that the leadership on Capitol Hill will feel the same passion, the same intensity, and have the same commitment to issues that American families care about than they do about one family from Cuban.

The PRESIDING OFFICER. The Senator from Minnesota.

THANKING THE CHAIR

Mr. WELLSTONE. Mr. President, I thank the Chair. I want to start out by thanking the Chair for his courtesy. There are many who preside over the Senate who do not always listen to Members during debates while they are on the floor. You are one who does, and I have to thank you for your courtesy.

SENATE BUSINESS

Mr. WELLSTONE. Mr. President, I want to build on the comments of my colleague, Senator DURBIN—not in a shrill way but I guess in a determined way.

A good friend of mine has really become a dear friend. I love his work. Jonathan Kozol wrote a book called ''Amazing Grace: The Lives of Children and the Conscience of a Nation.'' He has now written another book. I think people in the country, as is the case with all of Jonathan's work—and I wouldn't be surprised if the Chair in his commitment to children hasn't read some of his work—have read his work because it is very important. He sent to me yesterday in the mail—I didn't bring it with me to the floor because I didn't realize I had a chance to speak—some data about per pupil expenditures in New York City and surrounding suburbs.

The long and the short of it is that the suburbs surrounding the city, because of the wealth of the communities with strong reliance on property taxes, are able to spend about twice as much per pupil as the inner city. Not surprisingly, their teachers are certified and qualified, which is not the case necessarily in the city in terms of having had the experience of certification or expertise in the subject matter. Not surprisingly, therefore, there is tremendous variation in terms of those children and their opportunities to succeed.

I raise this question because I hope that soon we will have the Elementary and Secondary Education Act out on the floor. When we do, I hope it will be the Senate at its best.

I am going to register the same, if you will, grievance or sharp dissent from the majority leader. I haven't done it behind his back. He knows what my position is about the way we have been operating.

I hope when this bill comes to the floor this will not be yet another case of the majority leader essentially saying: Look, only the following amendments will be in order. Any other amendments will not be. What happens is there is no agreement, and the majority leader files cloture. Then cloture is not invoked. Then the bill is pulled. I hope we don't see that.

Last week, or the week before our recess, we had this debate over the marriage penalty tax. There were a number of us who wanted to bring out amendments that we thought were terribly important dealing with prescription drug costs. Again, the majority leader said: This isn't relevant, and therefore I choose not to go forward. We had a debate about it and cloture was invoked. We will have that debate again. Or there was an effort to invoke cloture, cloture was not obtained, and the bill was pulled.

I think that is what happened, and, as a result, I think the Senate has lost its vitality.

I was elected in 1991. Honest to goodness, I think it is the truth. I don't think anybody can present evidence to the contrary. The way I remember it was that up until fairly recently, this was the pattern: A bill would come to the floor. Senators would come with amendments. We might have 60 or 90 amendments. Some would drop off and some of them wouldn't. We could go at it. We would start in the morning, go into the evening, and take a week, or 10 days, or 2 weeks. But we had debates. We had discussion. We had votes. We dealt with issues that were important to people's lives. We voted yes. We voted no. We had some vitality.

I say to the majority leader that I believe we have moved away from that to the detriment of this institution. I think we are sucking the vitality out of the Senate by the way we are conducting business. I strongly dissent from the majority leader in the way he has been proceeding. It is true that in this way people do not have to vote on amendments. But what representative democracy is all about is accountability. What the Senate is all about is it is an amendment body. It is a debate body. And individual Senators, whether you have a lot of seniority or whether you don't, can make a difference in the Senate—or could make a difference in the Senate before—because you could bring amendments and have at it.

I started out focusing on children and education. I am real interested, as long as we are talking about high standards, in making sure every child has the same opportunity to meet those standards. I would like to talk about that.

You and I, Mr. President, talked some about early childhood development and how important it is pre-K. Why isn't the Federal Government more of a player? Why aren't we getting more resources? Your colleague from Ohio feels just as strongly about it. You and I talked about it. Why is it that people working with children ages 3 and 4 do such important work, and then all of their work is so devalued in terms of the pay they make? How can we provide the incentive for men and women to go into the field?

I am concerned, as is Senator DURBIN, coming from a State such as mine that only one-third of senior citizens in our State have prescription drug coverage at all. I see it all the time in terms of what this has done to people. It is not atypical to talk to a single elderly woman whose husband has passed away. She might be 75. Her monthly income might be $600 and $300 of it is for prescription drug costs.

I want to come out here to talk about a bill Senator DORGAN and I have worked on that would make a huge difference in terms of costs. But, no, we couldn't have that debate.

I am from an agricultural State. We have an economic convulsion in agriculture. Many people who I love and respect work so hard. No one can say they don't work hard. It doesn't matter; they can work 19 hours a day. They can be the greatest managers in the world. They are being spit out of the economy and they are losing their farms in this economy. I want to talk about how we can make some changes to the farm bill passed in 1996 called Freedom to Farm—some of us call it ''freedom to fail''—so we can deal with the price crises. I would like to talk about whether we can reach an agreement on the antitrust action so producers can have a level playing field.

Mr. President, there are many issues that are important to people's lives, whether people live in metro, urban, rural, or suburban communities. There are many issues that are important to children to make sure that we as a nation at least come closer to reaching our national vow of equal opportunity for every child. There are issues that deal with reform and, God knows, I would think all of us would hate the mix of money in politics. I can't stand raising money. I can't bear it. I hate getting on the phone. I think, systemically, it creates tremendous problems in terms of undercutting representative democracy, where some people have too much access to both parties at an institutional level and too many people don't.

I would like to see us focus on reform. I have just mentioned some

issues and I have taken up more than 5 minutes. I make the appeal to the majority leader in particular that we have at it, with the opportunity to bring amendments to the floor. Let's debate and operate the Senate at its best. We can be good Senators and be at our best. Some Senators can be great Senators if they have the opportunity to offer amendments and have adequate debate and vote them up or down and vote the legislation up or down.

I am speaking in morning business. I am sick of morning business at quarter to 11. I want a bill out here. I want amendments. I want substantive debate and up-or-down votes, and I want us to be accountable.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

ECSTASY

Mr. GRASSLEY. Mr. President, many times I have come to the floor to express my concerns regarding the threat of illegal drugs to our young people. Today, I want to address one drug in particular, a designer drug called Ecstasy. Although it has been around a long time, its use has exploded recently. As with most such drugs, drug pushers are marketing it as a safe drug. That's a lie.

Ecstasy is a Schedule I synthetic drug with amphetamine-like properties that is inexpensive and easy to make. It acts as a stimulant and a hallucinogen for approximately 4 to 6 hours and gives its users a false sense of ease and relaxation. Because of these effects, Ecstasy is often found in big city club scenes that specialize in attracting young people. Recently, however, the nation is experiencing an Ecstasy explosion, which is spreading this dangerous drug into suburban and rural areas. With the recent release of a study on substance abuse in mid-size cities and rural America by the National Center on Addiction and Substance Abuse (CASA), this is particularly disturbing.

In January of this year, CASA warned that Americans need to recognize that drugs are not only an urban problem, but a rural problem as well. I see this in my own state of Iowa. CASA reports that 8th graders living in rural America are 34 percent more likely to smoke marijuana and 83 percent more likely to use crack cocaine, than those in urban areas. It also reports that among 10th graders, use rates in rural areas exceed those in urban areas for every drug except marijuana and Ecstasy. The key here is that Ecstasy is not yet, but is quickly becoming a rural drug. It is imperative that parents and kids become aware of Ecstasy and the dangers of use.

Unfortunately, Ecstasy is quickly becoming the drug of choice among many of our young people. It is perceived by many as harmless because negative effects are not immediately noticeable. In fact, Ecstasy is often referred to as a recreational drug. For this reason, it is not surprising that Monitoring the Future, an annual study that monitors illicit drug use among teenagers, reported Ecstasy use growing. Lifetime use among 12th graders increased from one in fifteen in 1998 to one in twelve in 1999. Past year use went from one in twenty-five in 1998 to one in fifteen in 1999. This is a disturbing upward trend.

Ecstasy is a dangerous drug that can be lethal. Many are unaware that it can cause increased heart rate, nausea, fainting, chills, and sleep problems. In addition to physical effects, there are also psychological effects such as panic, confusion, anxiety, depression, and paranoia. Scientists are also learning that Ecstasy may cause irreversible brain damage, and in some cases it simply stops the heart. We need to put an end to the spread of Ecstasy into our communities. We need to take away its image as safe. We need to counter the arguments, that it is a fun drug.

However, with recent reports of rises in Ecstasy seizures by the U.S. Customs Service, it seems we have a long, hard battle ahead of us. In fiscal year 1999, Customs seized 3 million doses of Ecstasy. In the first 5 months of fiscal year 2000, Customs seized 4 million doses. Ecstasy has become such a threat that Customs has established an Ecstasy Task Force to gather intelligence on criminal smuggling of Ecstasy. Customs has also trained 13 dogs to detect Ecstasy among those crossing the border and entering major airports.

Although much is being done to stop the flow into our country, we need to play our part and educate the young people in our communities. In my home state of Iowa, Ecstasy is not yet a major problem and this may be the case in your home states as well. However, I am here today to tell you that if it isn't a problem now, it may be soon. We need to stop the use of Ecstasy before it starts. And the way to do that is to educate the parents and young people in our communities on the dangers. I don't want to see any more innocent lives cut short or careers ruined because of bad or no information.

Mr. FEINGOLD. Mr. President, I ask unanimous consent to speak for 15 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FEINGOLD. I thank the Chair.

(The remarks of Mr. FEINGOLD pertaining to the introduction of S. 2463 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. HELMS. I ask unanimous consent that I be permitted to yield to the distinguished Senator from Oregon and that I follow him.

The PRESIDING OFFICER (Mr. HUTCHINSON). Without objection, it is so ordered.

Mr. DEWINE. Mr. President, I also ask unanimous consent that I follow the Senator from North Carolina.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Oregon.

Mr. WYDEN. Mr. President, before I begin I want to thank Chairman HELMS for his courtesy. There is no Senator more gracious. I particularly appreciate the Senator giving me the opportunity to speak today at this time.

PRESCRIPTION DRUG COVERAGE

Mr. WYDEN. Mr. President, this morning there is fresh evidence that millions of our older Americans cannot afford their prescription medicine. I have come to the floor of this Senate on more than 20 occasions now to make this point. But the news this morning comes at an especially important time. On both sides of Capitol Hill efforts are underway to develop a practical approach to making sure older people can get prescription drug coverage under the Medicare program.

I have had the opportunity for many months now to work with colleagues on both sides of the aisle, and I am especially appreciative of the efforts of Senator DASCHLE to try to bring Members of the Senate together to find common ground in this session to get prescription drug coverage for older people. Under Senator DASCHLE's leadership, principles have been developed that every Member of the Senate would find appealing and attractive to. We have talked, for example, about how this program would be voluntary. No senior citizen who is comfortable with their prescription drug coverage would be required to do anything if they chose not to. That is something that would be attractive to both parties.

We have talked about making sure this is a market-oriented approach, that we use the kind of forces that are available to individuals receiving coverage in the private sector through private insurance and through health maintenance organizations. We want to make sure the benefit is available in all parts of the United States. There are areas of this country where there may not be big health plans, but as long as there is a telephone, a pharmacy, and a mailbox, we are going to be able to get the medicine to those older people in an affordable way.

Finally, many of my colleagues and I believe coverage ought to be universal. It ought to be available to all people on the Medicare program.

The most important point—and it is why I come to the floor today—is that we have fresh evidence that millions of seniors can't afford their medicine. We have to take steps to make the cost of medicine more affordable to the elderly. There is a right way to do this and a wrong way to do this. The wrong way is to institute a regime of private controls, a Federal one-size-fits-all approach because that involves a lot of cost shifting to other groups of citizens.

If we just have Federal price controls for the Medicare program, a lot of

women who are 27, single, with a couple of kids will see their prescription drug bill go through the roof. We will have to develop a market-oriented approach along the lines of what Members of Congress receive through the Federal Employees Health Benefits Plan. That way we can give senior citizens the kind of bargaining power that folks have in a health maintenance organization or in a private plan. We could do it without price controls that produce a lot of cost shifting.

This is an important date in the discussion about prescription drugs. Our older people don't get prescription drug coverage under the Medicare program. That has been the case since it began in 1965. When they walk into a pharmacy and don't have coverage, in effect, they are subsidizing the big buyers—the health maintenance organizations and the private plans.

I hope we can come together in the Senate to find common ground. Senator DASCHLE is trying to bring Members of the Senate together. I know there are colleagues on the other side of the aisle who feel exactly the same. Let's not let this issue go off as campaign fodder for the 2000 election. Let's not adjourn this session without coming together and enacting this important benefit for the elderly.

I don't believe America can afford not to cover prescription medicine. A lot of these drugs today might cost up to $1,000, such as an anticoagulant drug that is so important for the elderly. That is certainly a pricey sum. If a senior citizen can get anticoagulant medicine to prevent a stroke that would cost upwards of $100,000 or $150,000, it is pretty clear that prescription drug coverage is a sensible and cost-effective approach for the Senate to take.

I intend to return to the floor in the future, as I have done on more than 20 occasions, in an effort to bring the Senate together. I am especially appreciative of Senator DASCHLE's patience in our effort to try to find common ground. I know there are colleagues on the other side of the aisle who feel the same.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I have a slight difficulty with my balance due to a temporary defect in my feet. I ask unanimous consent I be permitted to deliver my remarks seated.

The PRESIDING OFFICER. Without objection, it is so ordered.

NEGOTIATIONS WITH RUSSIA ON A REVISED U.S.-SOVIET ABM TREATY

Mr. HELMS. Mr. President, the news media is buzzing with speculation that President Clinton will attempt, in his final month in office, to strike a major arms control deal with Russia—including a major ABM Treaty that would limit the ability of the United States to defend itself against ballistic missile attack.

White House officials have openly stated their concern that Mr. Clinton faces the prospect of leaving office without a major arms control agreement to his credit—the first President in memory to do so. And from this President—a man uniquely absorbed with his legacy—that perhaps would be, to him, a personal tragedy.

Mr. Clinton wants an agreement, a signing ceremony, a final photo-op. He wants a picture shaking hands with the Russian President, broad smiles on their faces, large, ornately bound treaties under their arms, as the cameras click for perhaps the last time—a final curtain call.

I must observe that if the price of that final curtain call is a resurrection of the U.S.-Soviet ABM Treaty that would prevent the United States from protecting the American people against missile attack, then that price is just too high.

With all due respect, I do not intend to allow this President to establish his legacy by binding the next generation of Americans to a future without a viable national missile defense.

For nearly 8 years, while North Korea and Iran raced forward with their nuclear programs, and while China stole the most advanced nuclear secrets of the United States, and while Iraq escaped international inspections, President Clinton did everything in his power to stand in the way of deploying a national missile defense. Do you want some facts, Mr. President? Let's state some for the record.

In 1993, just months after taking office, Mr. Clinton ordered that all proposals for missile defense interceptor projects be returned unopened to the contractors that had submitted them.

In December of that same year, 1993, he withdrew the Bush administration's proposal for fundamentally altering the ABM Treaty to permit deployment of national missile defenses at a time when Russia was inclined to strike a deal.

By 1996, 3 years after taking office, Mr. Clinton had completely gutted the National Missile Defense Readiness Program. He slashed the national missile defense budget by more than 80 percent.

In 1997, he signed two agreements to revive and expand the U.S.-Soviet ABM Treaty, including one that would expand ABM restrictions to prevent not only national missile defense for the American people but to constrain theater missile defenses to protect our troops in the field.

Then for the next 3 years, the President, heeding some of his advisers, no doubt, refused to submit those agreements to the Senate, despite making a legally binding commitment to submit them. He made that commitment to me in writing. He did not submit them because he was afraid the Senate would reject them, while in doing so would clear the way for rapid deployment of missile defenses. To this day, he still has not fulfilled his legal requirement to submit those treaties for the Senate's advice and consent.

In December 1995, Mr. Clinton vetoed legislation that would have required the deployment of a national missile defense with an initial operational capability by the year 2001.

Three years later, in 1998, he again killed missile defense legislation—the American Missile Protection Act—which called for the deployment of national missile defense, as soon as its technology was ready, by threatening a veto and rallying Democratic Senators to filibuster the legislation.

Only in 1999 did he at long last sign missile defense legislation into law, but only after it passed both Houses of Congress by a veto-proof majority and only after the independent Rumsfeld Commission had issued a stinging bipartisan report declaring that the Clinton administration had dramatically underestimated the ballistic missile threat to the United States.

But while Mr. Clinton was doing all this, costing America almost 8 years in a race against time to deploy missile defenses, our adversaries were forging ahead with their missile systems.

While Mr. Clinton was dragging his feet, for example, foreign ballistic missile threats to the United States grew in terms of both range and sophistication. Today, several Third World nations possess, or are developing, ballistic missiles capable of delivering chemical, biological, or nuclear warheads against cities in the United States.

According to the Rumsfeld Commission, both North Korea and Iran are within 5 years of possessing viable ICBMs capable of striking the continental United States, and North Korea may already today have the capacity to strike Alaska and Hawaii. Last month, Communist China explicitly threatened to use nuclear weapons against United States cities should the United States take any action to defend democratic Taiwan in the event Beijing launched an invasion of Taiwan.

So Mr. Clinton is in search of a legacy? La-di-da. He already has one. The Clinton legacy is America's continued inexcusable vulnerability to ballistic missile attack. The Clinton legacy is 8 years of negligence. The Clinton legacy is 8 years of lost time.

But in the twilight of his Presidency, Mr. Clinton now wants to strike an ill-considered deal with Russia to purchase Russian consent to an inadequate U.S. missile defense—one single site in Alaska to be deployed but not until 2005—in exchange for a new, revitalized ABM Treaty that would permanently bar any truly national missile defense system.

The President is attempting to lock this Nation, the United States of America, into a system that cannot defend the American people, and the President is trying to resurrect the U.S.-Soviet ABM Treaty which would

make it impossible for future enhancements to U.S. national missile defense in general.

The agreement Mr. Clinton proposes would not permit space-based sensors; it would not permit sufficient numbers of ground-based radars; and it would not permit additional defenses based on alternate missile interceptor systems, such as naval or sea-based interceptors. All of these, and more, are absolutely necessary to achieve a fully effective defense against the full range of possible threats to the American people.

Mr. Clinton's proposal is not a plan to defend the United States; it is a plan to leave the United States defenseless. It is, in fact, a plan to salvage the antiquated and invalid U.S.-Soviet ABM Treaty. That is what it is. No more. No less. It is a plan that is going nowhere fast in protecting the American people.

After dragging his feet on missile defense for nearly 8 years, Mr. Clinton now fervently hopes he will be permitted in his final 8 months in office to tie the hands of the next President of the United States. He believes he will be allowed to constrain the next administration from pursuing a real national missile defense. Is that what he believes or even hopes?

Well, I, for one, have a message for President Clinton: Not on my watch, Mr. President. Not on my watch. It is not going to happen.

Let's be clear, to avoid any misunderstandings down the line: Any modified ABM Treaty negotiated by this administration will be DOA—dead on arrival—at the Senate Foreign Relations Committee, of which, as the Chair knows, I happen to be the chairman.

This administration's failed security policies have burdened America and the American people long enough. In a few months, the American people will go to the polls to elect a new President, a President who must have a clean break from the failed policies of this administration. He must have the freedom and the flexibility to establish his own security policies.

To the length of my cable-tow, it is my intent to do everything in my power to ensure that nothing is done in the next few months by this administration to tie the hands of the next administration in pursuing a new national security policy, based not on scraps of parchment but, rather, on concrete defenses, a policy designed to protect the American people from ballistic missile attack, a policy designed to ensure that no hostile regime—from Tehran to Pyongyang to Beijing—is capable of threatening the United States of America and the American people with nuclear blackmail.

Any decision on missile defense will be for the next President of the United States to make, not this one. It is clear that the United States is no longer legally bound by the U.S.-Soviet ABM Treaty. Isn't it self-evident that the U.S.-Soviet ABM Treaty expired when the Soviet Union, our treaty partner, ceased to exist? Legally speaking, I see no impediment whatsoever to the United States proceeding with any national missile defense system we—the American people and this Congress—choose to deploy.

That said, for political and diplomatic reasons, the next President—the next President—may decide that it is in the U.S. interest to sit down with the Russians and offer them a chance to negotiate an agreement on this matter.

Personally, I do not believe a new ABM Treaty can be negotiated with Russia that would permit the kind of defenses America needs. As Henry Kissinger said last year in testimony before the Foreign Relations Committee:

> Is it possible to negotiate a modification of the ABM Treaty? Since the basic concept of the ABM Treaty is so contrary to the concept of an effective missile defense, I find it very difficult to imagine this. But I would be open to argument—

And let me emphasize these words as Henry Kissinger emphasized them when he said—

> provided that we do not use the treaty as a constraint on pushing forward on the most effective development of a national and theater missile defense.

Now then, like Dr. Kissinger, I am open to the remote possibility that a new administration—unencumbered by the current President of the United States in his desperate desire for a legacy and this administration's infatuation with the U.S.-Soviet ABM Treaty—could enter into successful negotiations with the Russians.

The Republican nominee for President, Mr. Bush of Texas, has declared that on taking office he will give the Russians an opportunity to negotiate a revised—a revised—ABM Treaty, one that will permit the defenses America needs. But Mr. Bush made it clear that if the Russians refuse, he will go forward nonetheless and deploy a national missile defense. And good for him. Mr. Bush believes in the need for missile defense, and he will negotiate from a position of strength.

By contrast, President Clinton clearly has no interest whatsoever in missile defense. His agenda is not to defend America from ballistic missile attack but to race against the clock to get an arms control agreement—any agreement; he means any agreement—that will prevent his going down in history as the first President in memory not to do so.

So it is obvious, I think, that any negotiations Mr. Clinton enters into in his final months will be from a position of desperation and weakness.

For this administration—after opposing missile defense for almost 8 years—to attempt at the 11th hour to try to negotiate a revised ABM Treaty is too little, too late. This administration has long had its chance to adopt a new security approach to meet the new threats and challenges of the post-cold-war era. This administration, the Clinton administration, chose not to do so.

So this administration's time for grand treaty initiatives is clearly at an end. For the remainder of this year, the Foreign Relations Committee will continue its routine work. We will consider tax treaties, extradition treaties, and other already-negotiated treaties. But we will not consider any new last-minute arms control measures that this administration may negotiate and cook up in its final, closing months in office.

As the chairman of this committee, I make it clear that the Foreign Relations Committee will not consider the next administration bound by any treaties this administration may try to negotiate in the coming 8 months.

The Russian Government should not be under any illusion whatsoever that any commitments made by this lame-duck administration will be binding on the next administration. America has waited 8 years for a commitment to build and deploy a national missile defense. We can wait a few more months for a new President committed to doing it—and doing it right—to protect the American people.

Thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. Mr. President, I ask unanimous consent to proceed for 15 minutes and also ask unanimous consent for Senator GORTON to proceed then immediately following me for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

IMPROVING AMERICA'S SYSTEM OF EDUCATION

Mr. DEWINE. Mr. President, we have a great opportunity ahead of us. Next week, the Senate will begin floor debate on the Education Opportunities Act—a bill that will help America's children by improving the quality of their education.

While education policy is primarily a local and State responsibility, the Federal Government does have a role to play. I am looking forward to discussing just what the Federal Government can do to improve the quality of the education our children receive. Few things are more important to our children's future than the quality of their education.

Every child in this country, regardless of race, economic status, or where that child lives, deserves the opportunity for a quality education. Yet far too many children, especially in our inner cities and Appalachia, simply are not getting the quality education they deserve.

We need more good teachers. We need safer schools. We need college access for all students who want to go to college.

We must, as a nation, attract the smartest and the most dedicated of our students to the profession of teaching. Yes, we certainly have to invest in

computers, new books, and new buildings. But we cannot ignore the single most important resource in any classroom—the teacher.

I have recalled before on this Senate floor something that my own high school principal, Mr. John Malone, told me 37 years ago. We were about to go into a new building. Everyone was excited; everyone was happy.

Mr. Malone came in and said to our class: We are about ready to go into this new building. We are all excited about it. It is a great thing. We have prepared for this for a long time. I want you to always remember one thing: In education, there are only two things that really matter. One is a student who wants to learn; the other is a good teacher. Everything else is interesting, maybe helpful. The only thing that really matters is that teacher and that student.

What Mr. Malone told our class 37 years ago was right then, and it is still correct today. We all know a good teacher has the power to fundamentally change the course of our life. Each one of us, if we are lucky, can recall one teacher or two or maybe three or many teachers who fundamentally changed our life, who we think about when we do things, whose voice still comes back to us, whether that is an English teacher telling us how to write or maybe something our history teacher, maybe later on a professor, told us. Each of us can recall that teacher who changed our life.

Those of us who are parents know how important a good teacher is. We know what happens when occasionally our child gets a teacher who just doesn't want to teach or who is not so good. We know what impact that has on a child as well. When you get right down to it, good teachers are second only to good parents in helping children to learn. Therefore, any effort to restore confidence and improve quality in education must begin with a national recommitment to teaching as a profession. This bill does that.

First, we must recommit ourselves to attracting the best, the most motivated of our students to the teaching profession. That means offering teachers the salaries and, yes, the respect they deserve. Second, we must insist our colleges and our university education departments aggressively reexamine how they prepare our future teachers. Some are doing it; some are changing. But all need to reexamine what they are doing.

Third, our teachers must have the resources available to allow them to continue their education after they enter the profession. The teaching profession is no different than any other profession. You continue to learn throughout the years. For example, in my home State of Ohio, in Cincinnati, teachers have access to the Mayerson Academy, which is a partnership with area businesses and the school system to provide teachers with additional training and additional professional development. This kind of support should be available to teachers in every community in this country.

That is why, in the bill we will begin debating next week, I have included a provision that would authorize funding for the creation and expansion of partnerships between schools and communities to create teacher training academies such as the Mayerson Academy in Cincinnati. It works in Cincinnati. It will work in other communities. This is the kind of initiative that will help our teachers and our communities work together to improve the quality of teaching and, ultimately then, to improve the quality of education.

There are other things we need to do and other things this bill does address. This is a good bill. When Members begin to hear the debate next week, I think they will understand how much work has gone into it and how it will impact the quality of education in this country.

We need to make it easier to recruit future teachers from the military, from industry, and from research institutions, people who have had established careers, who have had real-world experience, and then who decide, at the age of 40 or 45 or 50, that they are going to retire from that profession and enter the teaching profession. We need to make it easier for them to do it.

Getting this kind of talent in the classroom is easier said than done. For example, if Colin Powell wanted to teach a high school history class or if Albert Einstein were alive today and wanted to teach a high school physics class, requirements in some States would keep these professionals—I would say in most States—from immediately going into the classroom, despite their obvious expertise in their fields. That is why we have included language in this bill to allow the use of Federal funds under title II for alternative teacher certification programs. This provision will allow States to create and expand different types of alternative certification efforts.

Additionally, the committee approved a separate amendment that I offered—and that is now part of the bill—that would ensure the continuation of a specific program designed to assist retired military personnel who are trying to enter the teaching profession. This is a great program. It is called Troops to Teachers. It simply helps retiring members of the military gain the State certification necessary to teach. It also helps them to find the school districts in greatest need of teachers. It is a program that has worked. It is a program that is improved in this bill, and it is a program that is continued in this bill.

Troops to Teachers has succeeded in bringing dedicated, mature, and experienced individuals into the classroom. In fact, when school administrators were asked to rate Troops to Teachers participants in their own schools, most of the administrators said the former military personnel turned teachers were well above the average and were among the best teachers in their schools.

Since 1994, over 3,600 service members, by going through the Troops to Teachers program, have made the transition from the military into the classroom. When we analyze who those people are, who is going into the classroom, who is going through the Troops to Teachers program, what we find is they are just the people we need. They are people with real-world experiences. They are people with expertise many times in math and science, something we desperately need in our schools. They are disproportionate to the population as far as the minority population, so it means we are putting more minority teachers into our classrooms. We are also doing something many professionals tell us we need to do; that is, try to get more males into the primary schools. Troops to Teachers is doing that as well. It is an exciting program that is continued in this bill. It is improved in this bill. It is one of the things that makes this bill a very solid bill. We need to ensure this kind of program, one with proven results, continues well into the future.

Separate from the difficulties of the teacher certification process I have described, I am also concerned about the fact that many of our most experienced teachers, the teachers who in many cases are the most senior, are about to retire. The fact is, these experienced teachers are also the best resources in our schools. It is very important that we benefit from their experience before it is too late, before they leave the teaching profession. That is why I included language in the bill that will allow the use of Federal funds for new and existing teacher mentoring programs. New teachers benefit greatly by learning from the knowledge and the experience of veteran teachers. By pairing new teachers with our schools' most experienced and most respected teachers, those who have years of knowledge and expertise and experience in this profession, we can help retain our brightest and talented young teachers.

Finally, the bill contains my language to expand the mission of the Eisenhower National Clearinghouse, a national center located at Ohio State University that provides teachers with the best teacher training and curriculum materials on the subjects of math and science. The clearinghouse, which screens, evaluates, and distributes the multiple training and course materials currently available, makes it easy for teachers to quickly and efficiently access material for the classrooms. My provision in title II expands the clearinghouse's mission to go beyond math and science, to now, under this bill, include subjects such as history and English.

The bill we will consider next week takes a number of positive steps towards improving the quality of those who make the commitment to teach.

What this bill is about is expanding the support network available to our teachers: support for people in other professions seeking a second career as a teacher; support for teachers seeking to improve subject knowledge or classroom skills; support for teachers seeking new ways to teach math or science or history; and finally, support for new teachers from experienced teachers.

In short, with this bill, we provide the kinds of resources that enable the teaching profession to build upon its commitment to teaching excellence. Mr. President, as we debate the merits of the Educational Opportunities Act, the bottom line, I believe, is that we need to get back to basics: good teachers, safe schools. That is what this bill is about—good teachers, safe schools. Parents will not have peace of mind unless they know their children's teachers are qualified to teach, that they are good teachers, and that their children's schools provide safe learning environments. It is that simple. That is what parents expect.

Today, I have talked about teaching and what this bill does to assist the teaching profession. Tomorrow, I hope to have the opportunity to talk about the second component of this bill which is safe schools. Good teachers, safe schools. We need to get back to the basics, and that is what this bill does.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Washington is recognized.

(The remarks of Mr. GORTON pertaining to the introduction of S. 2464 and S. 2466 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. GORTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KYL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

PROPOSING AN AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES TO PROTECT THE RIGHTS OF CRIME VICTIMS—Motion to Proceed—Resumed

The PRESIDING OFFICER. The clerk will report the unfinished business.

The legislative clerk read as follows:

Motion to proceed to S.J. Res. 3 proposing an amendment to the Constitution of the United States to protect the rights of crime victims.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I remind my colleagues of the status now of business on the Senate floor. It has been a little confusing, I know, particularly for those who might be watching who aren't familiar with Senate procedures. But sometimes we take something up and then lay it aside, take something else up, and then go back to the original matter, and so on. That is what we have been doing.

Yesterday, you will recall that we began the debate on S.J. Res. 3, which is an amendment to the U.S. Constitution that would provide rights to victims of violent crime. Senator FEINSTEIN of California and I are the primary sponsors of that resolution.

At the end of yesterday, we went to other matters. We are now going to resume debate on the motion to proceed to this resolution.

The Senate procedure is that we first have to decide to proceed, and then we can proceed. So later on this afternoon, hopefully, the Senate will vote to proceed to formal consideration of this constitutional amendment. Technically, for a while this afternoon we are going to be debating on whether or not we should proceed.

I am hopeful our colleagues will agree, whether they support the amendment or not, that they should permit us to proceed to make our case so they can evaluate it and decide at the end of that period whether or not they want to support a constitutional amendment.

I think it is a little difficult, given the fact that there hasn't been a great deal of information, for people who are not on the Judiciary Committee to decide what their position is on this until they have heard arguments.

Yesterday afternoon, Senator LEAHY primarily, but several other members of the Democratic side and one Republican, came to the floor and discussed at length, I think for at least 3, maybe 4 hours, reasons why they thought that constitutional amendment should not be adopted. Certainly there are legitimate arguments that can be adduced on both sides of this proposition.

But I would like to begin today by explaining a little bit why we believe that it is important, first, to take the amendment up, and, second, why we believe, if we do take it up, it should be supported by our colleagues.

Senator FEINSTEIN will be here shortly, and she will begin her presentation by discussing a case, the Oklahoma City bombing case, that in some sense is a metaphor for this issue generally, because in the Oklahoma City bombing case victims were denied their rights. Families of people who were killed were not permitted to sit through the trial. They were given a choice over a lunch break during the trial either to remain in the courtroom or to leave if they wanted to be present at the time of the sentencing and to say something to the judge at that time. There was enough confusion about the matter that many of them gave up their right to sit in the courtroom in order to be able to exercise their right to speak to the judge at the time of the sentencing.

Congress was so exercised about that it actually passed a law—it was specifically directed to the Oklahoma City bombing case but it pertained to other similar cases—so that victims have the right to be in courtroom, and they shouldn't have to make a choice between the trial and sentencing. They should be able to appear at both.

Senator FEINSTEIN will discuss in a moment the details of how that case proceeded and why it stands for the proposition that we need a Federal constitutional amendment.

The bottom line is that even the Federal Government passed a statute designed to pertain to this exact case which was insufficient to assure that those people could exercise what we believe is a fundamental right to sit through that trial. They were denied that right.

What is worse, because the case was taken up on appeal, and because the U.S. Constitution clearly trumps any Federal statute, or any State statute, or State constitutional provision, it wasn't possible to argue that this Federal statute trumped the defendants' rights if those were bases for the rights asserted.

So you have at least seven States, or thereabouts, in the Tenth Circuit that are now bound by a precedent that says this Federal statute doesn't work, to let you sit in the courtroom during the trial. That has to be changed. There is only one way to change it. That is with a Federal constitutional amendment that says to the courts, from now on, these are fundamental rights and courts must consider these rights.

As Senator FEINSTEIN will point out, supporters of this amendment include a wide variety of people who had family and friends involved in the Oklahoma City bombing case. One is Marsha Kight, whose daughter was killed. Marsha has been a strong supporter of the victims' rights amendment because she had to sit through all that. That is what Senator FEINSTEIN will be talking about.

We listened to arguments yesterday from Senator LEAHY and others about the amendment. I understand they wish to talk this afternoon. I will be paying attention to what they have to say and try to respond as best I can. The arguments fall into two or three general categories. One notion they presented is that this is a complicated amendment, it is too long—even longer than the Bill of Rights. It is not longer than the Bill of Rights. We have counted the words. I will have my staff tell Members exactly how many words are in the Bill of Rights and how many words are in this amendment.

The point is, to find defendants' rights, one has to look all over the Constitution. We have amended the Constitution several times to give people who are accused of crime different rights. If you added up all rights of the

accused and put them into one amendment, it would be much longer than the amendment we have for victims' rights. We have all of our rights in one place.

I don't think it should be an argument against providing victims of crime certain fundamental rights because it takes up several lines of the Constitution. We either mean to give them fundamental rights or we don't. Defendants have all of the rights now. That is fine. We take nothing away from the defendants. But this should not be based on whether there are more words describing the defendants' rights than there are describing victims' rights.

One reason we take a little longer to describe victims' rights—although it is shorter than the defendants' rights if we add them up—we have described them with great precision. They are very limited.

Defendants' rights are expressed in broad terms. Defendants have a ''right to trial by jury.'' Does that mean in all cases? Does that mean just in felony cases? What kind of a jury? Defendants are protected from ''unreasonable search and seizure.'' What does that mean? There is a basic ''fair trial'' right, and a right to counsel. All of these are expressed in very general terms.

There are thousands of pages of court decisions interpreting what ''unreasonable search and seizure'' means. I suppose the Founding Fathers could have written 10 pages describing exactly what they meant by ''unreasonable search and seizure.'' They didn't do that.

In our proposal, we have described these victims' rights with great care so that there could be no argument the rights took anything away from defendants. That is why some of the wording is apparently a little bit longer than our friends on the other side desire.

I guarantee if they were shorter, if they merely said victims have a reasonable right to attend the trial, their argument would be: We haven't nailed this down; This is too broad and subject to interpretation. You have to state exactly what is meant or it might conflict with the defendants' rights. Those who oppose this will argue it either way. In effect, we are damned if we do and damned if we don't. We have tried to word it carefully.

I have the exact number of words for anybody who is interested. Without the technical provisions which concern the effective date, the amendment is 307 words. The victims' rights are described in 179 words. Defendants' rights in the U.S. Constitution consume 348 words.

OK, so if this is all about how many words there are, we win. However, that is not what this is about. Let's get serious.

The other argument from the opponents was, we have written 63 drafts of this amendment. Yes, indeed, we have. In fact, we are proud of it. We have been making the point that this isn't some unthought-through proposition, written on the back of an envelope. We have written draft after draft after draft, as a good craftsman would polish a fine piece of furniture over and over and over until it was absolutely smooth and shiny. We have done the same thing with this amendment.

We have talked to prosecutors. We have talked to the U.S. Department of Justice. They have written a very nice letter complimenting the changes we made about concerns they expressed. We have accommodated many of their concerns. We talked to law professors; we talked to victims groups; we talked to lots of different people. As a result of all of these conversations, we have continued to modify the amendment to take into account their wonderful suggestions, to take into account concerns they have raised.

We are rather proud of the fact that we have been careful; we haven't just tried to slide this through. For 4 years we have been working on this through 63 different drafts. We now have a very carefully crafted, honed constitutional amendment. Frankly, we have written more drafts here than the Bill of Rights. People think that is a pretty good document. Of course, I would never hope to compete with our Founding Fathers. Understanding how much thought they put into their amendments, we have tried to be as careful in what we have written.

I daresay arguments can be made against our proposed constitutional amendment. There are some legitimate points to make. However, it is not legitimate to say we have tried to hurry this through, or we have not given it enough thought, or we have not had enough input, or we have not been willing to make changes. I think the fact we have gone through this number of changes illustrates the fact that we have been very open in the process.

That is why the amendment passed through the Senate Judiciary Committee with a very strong bipartisan vote of 12–5. Getting anything through this Judiciary Committee in the form of a constitutional amendment, I think all of my colleagues would agree, is a pretty sound testament to the care with which we have crafted this particular provision.

While there are arguments that can be made about the constitutional amendment, it is not fair to say we shouldn't do it because of the number of words in the amendment or we shouldn't do it because we have taken the pains to go through 63 drafts. We have tried to be very careful in what we have done. Those were two of the arguments raised against this yesterday.

A third argument was that we ought to give some time to allow a statutory alternative to work. With all due respect, it was in 1982, when President Reagan convened a group that was concerned with protecting victims' rights, that the proposal for a constitutional amendment was first made. It was in 1996 when President Clinton held a ceremony in the Rose Garden with the Attorney General and many others expressing his strong support for a Federal constitutional amendment to protect the rights of victims of crime. He said: We have experimented with State statutes, Federal statutes, and State constitutional provisions long enough. They just don't work to secure the rights of victims. Well meaning prosecutors and judges have tried hard. In fact, the cause of victims' rights has gained a lot of support over the years. Victims are much better treated in the process now than they were many years ago.

I read yesterday statement after statement by President Clinton, by Attorney General Reno, by associate attorneys general, by law professors, by Laurence Tribe, a respected professor from Harvard, district attorneys and judges, all of whom say, unfortunately, when a right is not expressed as a fundamental right in the U.S. Constitution, it just isn't protected with the same degree of care and consideration and energy as those rights that are protected in the U.S. Constitution.

That is why, according to a recent study, 60 percent of the victims who are supposed to get notice of their rights don't receive notice. One cannot exercise a constitutional right if one is not aware of it.

With respect to defendants, we have made it the Holy Grail that they will be advised of their rights. This is what the Miranda warning is all about. Defendants have a right not to speak and a right to an attorney.

Victims ought to at least get some reasonable notice of their rights. It does not mean you have to track them all down and stick a statement right in front of their faces and tell them orally, but it does mean you at least have to keep them on a mailing list or phone list. Computerized telephone messages now can be sent.

We have had testimony. For example, the county attorney in the sixth largest county in the country by population has testified it is just no problem to notify victims of their rights. He says the entire cost of taking care of the victims' rights is about $15, from beginning to end. It just is not a valid argument that it is going to be a real problem for prosecutors or the court system to provide this notice and to provide these rights to victims.

I have one final comment, since I think Senator FEINSTEIN is now ready, and I have given the introduction for her comments, I say to Senator FEINSTEIN, so our colleagues will be prepared to hear what she has to say. But I have a final comment about these rights.

There is a culture in the legal community that has built up over the years that bends over backwards to protect the rights of defendants. We have no quarrel with that. Law school courses,

Law Review articles, everything is oriented toward that. When you go to law school and you are a second- or third-year law student, you can participate in a legal clinic representing indigent defendants and so on, but there is no similar culture to protect the rights of victims. That is one reason why you have people reflexively saying: We have to make sure we protect the right of defendants. If we are going to protect the right of victims, we just do not feel real good about that because it might hurt defendants.

As we pointed out yesterday and as I think Senator FEINSTEIN is about to point out today, nothing in our proposal takes away a constitutional right of a person standing accused of a crime. We would not permit that and we are willing to include language that makes it clear that the rights we enumerate here for victims do not in any way abridge the rights of the defendants. That should be clear. So this culture that has grown up in support of defendants' rights should not be an argument against the protection of victims' rights, which, after all, involve people whom society has failed to protect in the first instance. If there is anyone we want to help through the criminal justice process it is these people, these victims of violent crimes.

I think that is a shorthand summary of the arguments against some of the things that were said yesterday. I am very pleased, though, that Senator FEINSTEIN is here, as I said, to present information that specifically responds to an argument that was made yesterday with respect to the Oklahoma City bombing case. There is a great deal of misunderstanding about that.

If she is prepared at this time, I ask her now to supplement what I have said in the presentation of her remarks in that regard.

The PRESIDING OFFICER (Mr. BURNS). The Senator from California.

Mr. LEAHY. Will the Senator from California yield?

Mrs. FEINSTEIN. I certainly will.

Mr. LEAHY. Mr. President, I do not want to interrupt the discussion of the Senator from Arizona and the Senator from California. I am just curious, so we can have some idea of where we might be; yesterday, we had a problem. I understand the two proponents were out negotiating a new draft of this. But we had a situation where there were few on the floor.

I know the two proponents of this amendment, although they are on opposite sides from me, would agree that a constitutional amendment is far too consequential to be some kind of place holder on the Senate schedule. We have a number of Senators who will want to speak. They have asked me to speak. We have the distinguished dean of our party, my friend, the senior Senator from West Virginia, who will want to speak. We have had others who have.

I am just curious if the two Senators have some concept of where we may be on the schedule.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I will be delighted to respond to the ranking member of the Judiciary Committee. It was my intention to introduce Senator FEINSTEIN today. She was on her way over. I knew that. She has some prepared remarks she would like to give.

At the conclusion of that, I am fully prepared to allow the Senator from Vermont and the Senator from West Virginia to proceed. I know they both have statements they want to make.

It is true it is much better if we are here. The Senator from Vermont yesterday had to step out while I was making some remarks. I understood that completely. He noted we had to step out while he was speaking.

Mr. LEAHY. For legitimate reasons, I should say.

Mr. KYL. Certainly. We plan to be here for however much time the Senator feels is necessary to take on this motion to proceed. We are willing to listen. We are willing to offer comments in reply. I would say Senator FEINSTEIN may have roughly 20 or 30 minutes. I am prepared at that point to allow the minority to proceed with whatever comments they may have.

Mr. LEAHY. I thank my good friend from Arizona. As always, he is courteous and helpful, as is the Senator from California. That is fine with me. Obviously, they are entitled to all the time they want.

I should note, again, in my comments, the distinguished Senator from Arizona and the distinguished Senator from California were working, actually moving the ball forward. The debate was not lost because it gave people an opportunity to state their positions. They were working in an effort to move us closer to a vote. I appreciate that.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I thank the ranking member and the distinguished Senator from Arizona. I am delighted the distinguished Senator from West Virginia is here. I will try to be as brief as I can. However, when I left the Democratic caucus at lunch yesterday, I felt, I might say, very lonely; that this, in a sense, was an insurmountable quest. As I went back to my office and as I considered what had been said in the caucus and what had been said on the floor of the Senate, I felt so strongly how worthwhile this fight is and how many people will be touched and protected if, one day, we do succeed.

Then I realized we were not alone. Later today, I will be submitting a raft of letters from a panoply of victims' rights organizations as well as law enforcement organizations that are in support of this measure. A few of them are up here on the board today: Mothers Against Drunk Driving, National Victims' Constitutional Amendment Network, National Organization for Victims Assistance, Parents of Murdered Children; Colorado Organization for Victim Assistance; Stephanie Roper Foundation; Mothers Against Violence in America—and on and on and on.

Also, a group of 37 State attorneys general, the former U.S. Attorneys General, William Barr, Dick Thornburgh, Ed Meese; the Alabama Attorney General, and on and on and on; the Law Enforcement Alliance of America, the American Correctional Association, American Probation and Parole Association, Concerns of Police Survivors, the National Troopers' Coalition, the International Union of Police Associations, Los Angeles County Police Chiefs' Association, and on and on and on. Members can look at this. I will submit later individual letters.

However, I thought it might be useful to answer some of the questions that were asked on the floor yesterday. One of them was that we should not be doing this lightly; this is too precipitous; it comes too fast; Members have not had enough of an opportunity to study it. In fact, Senator KYL and I have been working on this for 4 years. We have had four hearings in the Judiciary Committee. We have heard from 34 witnesses. We have taken 802 pages of testimony. The House has had 32 witnesses and has 575 pages of testimony. So this is not a lonely quest in the sense that it has lasted for a short period of time, but it is a quest that will go on as well.

Yesterday, both in the Democratic caucus, as well as on the floor, one distinguished member of the Judiciary Committee, a Senator whom I greatly respect, made this statement. Hopefully he will be listening because I want to provide the answer. The statement is:

> I have not received an answer, a good answer, from my colleague from Arizona and my colleague from California as to why not a statute. You can pass it more quickly and more easily. It fits the amendment. It fits what you are trying to do. No court, no Supreme Court, no final authority has thrown it out.

Let me take the biggest and broadest case and describe to my colleagues why a statute will not work. The reason I use this case is it is a case with which we are all familiar. It is a case in which this Senate has played a role twice in passing, in fact, two statutes. It is a case where the defendants had access to attorneys and could mount a legal challenge. It is the treatment of the Oklahoma City bombing victims.

I am going to read from a letter from a law professor who was one of the attorneys for the Oklahoma City bombing victims. His name is Paul Cassell. He is a professor of law at the University of Utah. He says:

> This morning I had the opportunity to listen to the debate on the floor of the Senate concerning the Crime Victims Rights Amendment. During that debate, if I understood it correctly, the suggestion was made that federal statutes had ''worked'' to protect the rights of the Oklahoma City bombing victims. As the attorney who represented

a number of victims in that case, I am writing to express my strong view that this suggestion is simply not correct. To the contrary, the events of that case show that statutes failed. To be specific, the statutes failed to assure that all victims who wanted to were able to attend the trial of Timothy McVeigh. Indeed, the Department of Justice prosecutors handling the case advised a number of victims that they should not attend to avoid creating unresolved legal questions about their status in the case. A number of the victims reluctantly accepted that advice. In other words, they sat outside the courtroom despite the presence of two federal statutes specifically designed to make sure that they had an unequivocal right to attend. To add insult to injuries, the other attorneys and I who represented the individual victims were never able to speak a word in court on their behalves. . . .

Some might claim that this treatment of the Oklahoma City bombing victims should be written off as atypical. However, there is every reason to believe that the victims here were far more effective in attempting to vindicate their rights than victims in less notorious cases. The Oklahoma City bombing victims were mistreated while the media spotlight has been on when the nation was watching. The treatment of victims in forgotten courtrooms and trials is certainly no better, and in all likelihood much worse. Moreover, the Oklahoma City bombing victims had six lawyers working to press their claims in court, including a law professor familiar with victims rights, four lawyers at a prominent Washington, DC, law firm and a local counsel. In the normal case, it often will be impossible for victims to locate a lawyer willing to pursue complex and unsettled issues about their rights without compensation. One must remember that crime most often strikes the poor and others in a weak position to retain counsel. Finally, litigating claims concerning exclusion from the courtroom or other victims' rights promises to be quite difficult. For example, a victim may not learn that she will be excluded until the day the trial starts. Filing effective appellate actions in such circumstances promises to be practically impossible. It should, therefore, come as little surprise that the Oklahoma City litigation was the first in which victims sought federal appellate court review of their rights under the Victims Bill of Rights, even though that statute was passed in 1990.

What he is saying is that this was the first time victims under a statute passed 6 years earlier actually tried to use the court to enforce their rights.

He continues:

The Oklahoma City bombing victims would never have suffered these indignities if the Victims Rights Amendment had been the law of the land. It would have unequivocally protected their right to attend and their ''standing'' to assert claims on their behalf to protect that right. In short, the federal amendment would have worked to protect their rights.

Then he goes on to give a chronology, and I think this is very important because the issue is effectively standing and the fact that they have no standing in the Constitution to have these rights. I think it is important that I point out a chronology of exactly what happened. I want to take the time to do that:

During a pre-trial motion hearing in the Timothy McVeigh prosecution, the district attorney . . . issued a ruling precluding any victim who wished to provide victim impact testimony at sentencing from observing any proceeding in the case. The court based its ruling on Rule 615 of the Federal Rules of Evidence the so-called ''rule on witnesses.'' In the hour that the court then gave to victims to make this wrenching decision about testifying, some of the victims opted to watch the proceedings; others decided to leave Denver to remain eligible to provide impact testimony.

Thirty-five victims and survivors of the bombing then filed a motion asserting their own standing—

This is important—

then filed a motion asserting their own standing to raise their rights under federal law and, in the alternative, seeking leave to file a brief on the issue as amici curiae. The victims noted that the district court apparently had overlooked the Victims Bill of Rights, a federal statute guaranteeing victims the right (among others) ''to be present at all public court proceedings unless the court determines that testimony by the victim would be materially affected if the victim heard other testimony at trial.''

In other words, the court had flexibility to make that determination.

Continuing:

The District Court then held a hearing to reconsider the issue of excluding victim witnesses. The court first denied the victims' motion asserting standing to present their own claims, allowing them only the opportunity to file a brief as amici curiae. After argument by the Department of Justice and by the defendants, the court denied the motion for reconsideration. It concluded that victims present during the court proceedings would not be able to separate the ''experience of trial'' from ''the experience of loss from the conduct in question,'' and, thus, their testimony at a sentencing hearing would be inadmissible. . . .

The victims then filed a petition for writ of mandamus in the U.S. Court of Appeals for the Tenth Circuit seeking review of the district court's ruling. Because the procedures for victims appeals were unclear, the victims filed a separate set of documents appealing from the ruling. Similarly, the Department of Justice, uncertain of precisely how to proceed procedurally, filed both an appeal and a petition for a writ of mandamus.

Three months later, a panel of the Tenth Circuit rejected—without oral argument—both the victims' and the United States' claims on jurisdictional grounds. With respect to the victims' challenges, the court concluded that the victims lacked ''standing'' under Article III of the Constitution because they had no ''legally protected interest'' to be present at the trial and consequently had suffered no ''injury in fact'' from their exclusion. The Tenth Circuit also found the victims had no right to attend the trial under any First Amendment right of access. Finally, the Tenth Circuit rejected, on jurisdictional grounds, the appeal and mandamus petition filed by the United States. Efforts by both the victims and the Department to obtain a rehearing were unsuccessful, even with the support of separate briefs urging rehearing from 49 members of Congress, all six Attorneys General in the Tenth Circuit, and some of the leading victims groups in the nation.

In the meantime—

And now it gets even more critical—

the victims, supported by the Oklahoma Attorney General's Office, sought remedial legislation in Congress clearly stating that victims should not have to decide between testifying at sentencing and watching the trial. The Victims' Rights Clarification Act of 1997 was introduced to provide that watching a trial does not constitute grounds for denying the chance to provide an impact statement. The 1997 measure passed the House by a vote of 414 to 13. The next day, the Senate passed the measure by unanimous consent. The following day, President Clinton signed the Act into law, explaining that ''when someone is a victim, he or she should be at the center of the criminal justice process, not on the outside looking in.''

The victims then promptly filed a motion with the district court asserting a right to attend under the new law. The victims explained that the new law invalidated the court's earlier sequestration order and sought a hearing on the issue. Rather than squarely uphold the new law, however, the district court entered a new order on victim-impact witness sequestration. The court concluded ''any motions raising constitutional questions about this legislation would be premature and would present issues that are not now ripe for decision.'' Moreover, the court held that it could address issues of possible prejudicial impact from attending the trial by conduct[ing] a voir dire of the witnesses after the trial. The district court also refused to grant the victims a hearing on the application of the new law, concluding that its ruling rendered their request ''moot.''

After that ruling, the Oklahoma City victim impact witnesses—once again—had to make a painful decision about what to do. Some of the victim impact witnesses decided not to observe the trial because of ambiguities and uncertainties in the court's ruling, raising the possibility of exclusion of testimony from victims who attended the trial. The Department of Justice also met with many of the impact witnesses, advising them of these substantial uncertainties in the law, and noting that any observation of the trial would create the possibility of exclusion of impact testimony. To end this confusion, the victims filed a motion for clarification of the judge's order. The motion noted that ''[b]ecause of the uncertainty remaining under the Court's order, a number of the victims have been forced to give up their right to observe defendant McVeigh's trial. This chilling effect has thus rendered the Victims Rights Clarification Act of 1997 . . . for practical purposes a nullity.''

So the effort of this Congress to write one statute, and to clarify it with a second statute, was rendered a nullity.

Unfortunately, the effort to obtain clarification did not succeed, and McVeigh's trial proceeded without further guidance for the victims.

After McVeigh was convicted, the victims filed a motion to be heard on issues pertaining to the new law. Nonetheless, the court refused to allow the victims to be represented by counsel during argument on the law or during voir dire about the possible prejudicial impact of viewing the trial. The court, however, concluded (as the victims had suggested all along) that no victim was in fact prejudiced as a result of watching the trial.

This recounting of the details of the Oklahoma City bombing litigation leaves no doubt that statutory protection of victims rights did not ''work.'' To the contrary, for a number of the victims, the rights afforded in the Victims Rights Clarification Act of 1997 and the earlier Victims Bill of Rights were not protected. They did not observe the trial of defendant Timothy McVeigh because of lingering doubts about the constitutional status of these statutes.

The undeniable, and unfortunate, result of that litigation has been to establish—as the only reported federal appellate ruling [to date]—a precedent that will make effective

enforcement of the federal victims rights statutes quite difficult. It is now the law of the Tenth Circuit that victims lack ''standing'' to be heard on issues surrounding the Victims' Bill of Rights and, for good measure, that the Department of Justice may not take an appeal for the victims under either of those statutes. For all practical purposes, the treatment of crime victims' rights in federal court in Utah, Colorado, Kansas, New Mexico, Oklahoma, and Wyoming has been remitted to the unreviewable discretion of individual federal district court judges. The fate of the Oklahoma City victims does not inspire confidence that all victims rights will be fully enforced in the future. Even in other circuits, the Tenth Circuit ruling, while not controlling, may be treated as having persuasive value. If so, the Victims Bill of Rights will effectively become a dead letter.

This is the reason we pursue our case with such ardor. We do not believe it is possible, under any statute drafted to cover victims of violent crimes, to provide them with certain basic rights because any Federal statute would only cover 1 to 2 percent of the victims of violent crimes in the United States; and, secondly, because the one noteworthy case, in the sense of public knowledge, in the sense of major representation of victims by attorneys of major quality, resulted in two laws, passed by this Senate and the other House, being rendered a nullity.

That is the reason we pursue our quest here today.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. Who seeks time?

Mr. KYL. Mr. President, I know Senator LEAHY and Senator BYRD want to make a presentation. I would certainly be prepared to yield to them as soon as they are ready to make their remarks. In the meantime, I thought perhaps I could engage Senator FEINSTEIN in some conversation and maybe make a couple points myself. But as soon as Senator LEAHY or Senator BYRD arrive, I will be happy to relinquish the floor to them.

One of the arguments that has been raised by some opponents of the amendment, including a prominent columnist whom I respect greatly, George Will, derives from a superficial reading of our amendment. It is said that this kind of an amendment, which grants rights to victims of crime, would be discordant with the general purpose of the Constitution, which is not to grant entitlements to people that the Government would provide but, rather, protects people's natural rights, some of which are enumerated in the Bill of Rights, some of which are assumed to exist outside the Constitution and are more expressed in terms of prohibitions on bad government conduct.

I want to make clear—and seek Senator FEINSTEIN's view on this—that in both cases the Constitution has prevented deleterious Government action. In neither case does the Constitution grant rights. In our case, for example, the right to attend the trial that we talk about in the Oklahoma City bombing case is really not expressed as the right to attend the trial. There is no right to Government access to the trial. We express this as a prohibition on the Government denying access to the trial so if a victim or victim's family is able to get to the courtroom, nobody has to bring them there, but if they are able to get there and they want to attend the trial, the Government may not deny them that right.

In this regard, it is the same as the right to free speech. We all talk about the right to free speech. We really don't have an entitlement to free speech in the Constitution. We believe that is a natural right. As the Constitution says, the Government shall not abridge our right to free speech. It cannot constitutionally enact any laws that would inhibit the free exercise of speech.

I urge my colleagues and wise people, such as George Will, to read this carefully. It is just as the existing Constitution. We speak in common terms of protecting the right of free speech, the right to attend the trial about which Senator FEINSTEIN has been talking. But in reality, both constitutional provisions are prohibitions on the Government infringing upon this right.

Is that a distinction the Senator finds important in describing the Oklahoma City case?

Mrs. FEINSTEIN. Mr. President, I think Senator KYL has stated it very well. Not only do I find that to be a correct distinction—it is not only Senator KYL and I—it is legal scholars who we have worked with and trusted throughout this process. Let me quote the professor from Harvard with whom we worked, Larry Tribe.

> These are the very kinds of rights with which our Constitution is typically and properly concerned, rights of individuals to participate in all those government processes that strongly affect their lives. Congress and the states have already provided a variety of measures to protect the rights of victims.

Senator KYL and I have heard that said on this floor and outside of this floor. That certainly is true. Yet, as Professor Tribe goes on, the reports from the field are that they have all too often been affected. Rules to assist victims frequently fail to provide meaningful protection whenever they come into conflict with bureaucratic habit, traditional indifference, sheer inertia, or the mere mention of an accused's rights, even when those rights are not genuinely threatened.

I read the chronology of the Oklahoma City bombing case and the rights that those victims were afforded by two statutes, not one statute. We couldn't get it done right in 1990. We tried again 7 years later. Both of those were effectively declared a nullity by the Tenth Circuit because the victims had no standing under article III of the Constitution. So the question of standing and harm all enter into this. Everything I have been able to deduce is, the only way to provide standing to be a party at issue in the situation is through the Constitution of the United States. Would my colleague agree with that?

Mr. KYL. Yes. I thank Senator FEINSTEIN for that statement. It is a confirmation that scholars of law, not only she and I, have reached this conclusion.

I was just reminded of another place in which this conclusion is found. The U.S. Department of Justice volume ''New Directions from the Field, Victims Rights and Services for the 21st Century.'' Among the statements in this report is the following:

> Granting victims of crime the ability to participate in the justice system is exactly the type of participatory right the Constitution is designed to protect and has been amended to permanently ensure. Such rights include the right to vote on an equal basis and the right to be heard when the government deprives one of life, liberty or property.

What we have provided here is a set of rights, some expressed in terms of ''not to be excluded from,'' some expressed as a right such as a right to vote, as has been noted. In each case, the fundamental basis is that the Government cannot deprive one of their ability to participate in the criminal justice process to the extent we have defined it here. I think that is a very important distinction. As the Senator pointed out, without the standing to assert the right, it would be hollow. It would be merely an oratory statement. That is precisely why the people in the Oklahoma City bombing case couldn't vindicate their rights. The court said they didn't have any standing.

Mrs. FEINSTEIN. The point made by the Oklahoma City case is that these were not indigent victims. They had Washington counsel, distinguished counsel of very high quality. They tried to assert the rights under the statute, and the court essentially turned them down. This isn't what we think; this is what happens. I will quote a bit more from Professor Tribe on this very subject, until Senator BYRD, who is next, comes to the Chamber.

Larry Tribe makes this statement:

> Beginning with the premise that the Constitution should not be amended lightly and should never be amended to achieve short-term partisan or purely policy objectives, I would argue that a constitutional amendment is appropriate only when the goal involves (1) a needed change in government structure, or (2) a needed recognition of a basic human right, where (a) the right is one that people widely agree deserves serious and permanent respect, (b) the right is one that is insufficiently protected under existing law, (c) the right is one that cannot be adequately protected through purely political action such as state or federal legislation and/or regulation, (d) the right is one whose inclusion in the United States Constitution would not distort or endanger basic principles of the separation of powers among the federal branches . . . (e) the right would be judicially enforceable without creating open-ended or otherwise unacceptable funding obligations.

Professor Tribe goes on to say:

> I believe that S.J. Res. 3 meets these criteria. The rights in question—rights of crime

victims not to be victimized yet again through the processes by which government bodies and officials prosecute, punish, and/or release the accused or convicted offender—are indisputably basic human rights against government, rights that any civilized system of justice would aspire to protect and strive never to violate.

Mr. SCHUMER. Will the Senator yield for a question?

Mrs. FEINSTEIN. I am happy to yield when I have concluded my thought. I am in the middle of a quote from a very distinguished law professor, whom I know Senator SCHUMER respects greatly.

Mr. SCHUMER. I do, and I know him well. I thought the quote was finished. His quotes do go on.

Mrs. FEINSTEIN. They do go on. And once more, they are worth listening to.

Mr. SCHUMER. Indeed.

Mrs. FEINSTEIN. Continuing the quote:

To protect these rights of victims does not entail constitutionalizing the rights of private citizens against other private citizens; for it is not the private citizen accused of crime by state or federal authorities who is the source of the violations that victims' rights advocates hope to address with a constitutional amendment in this area. Rather, it is the government authorities themselves, those who pursue (or release) the accused or convicted criminal with insufficient attention to the concerns of the victim, who are sometimes guilty of the kinds of violations that a properly drawn amendment would prohibit.

I think that well states what we are trying to do.

I am delighted to yield to Senator SCHUMER.

Mr. SCHUMER. I thank my colleague. Before I ask my question, I commend Senator FEINSTEIN. We strongly disagree on the proposal before us. But I know that for years and years she has been concerned about victims. I know also of the passion, hard work, and diligence she brings to the debate. I commend her for that. Our strong disagreement on the issue does not in any way lessen my respect for her or the Senator from Arizona for the job they have done in moving this amendment to the floor.

Mrs. FEINSTEIN. We are eagerly awaiting the ''but.''

Mr. SCHUMER. There is no ''but'' about my respect for the Senator. However, there is a ''but'' about Professor Tribe's remarks in the whole. What bothers me most about this amendment—and I have expressed this to the Senator—is as follows. Of the five criteria Professor Tribe lays out, I think I would agree with four of them. I think that amendments should not be done lightly. But I think there are times when we have to amend the Constitution, although reluctantly. I certainly believe the rights of victims are extremely important. As the Senator knows, we worked on the crime bill of 1994 together. I worked diligently in the House to add the right of allocution and other things to the bill. I understand why the statute didn't work in Oklahoma City although I would like to debate another point.

But Professor Tribe, I think, goes off base when he says a statute would not take care of this problem. So I have a two-part question. First, why is it not better, if this particular statute does not work, to redesign it? Why is it not better to take the basic amendment that the Senator from Arizona and the Senator from California have offered and make it a statute, given the fact that we have not had a single State supreme court—in some States, such as mine, they are not called a supreme court—but the highest court of any of the 50 States throw out a victims' rights amendment on the basis of unconstitutionality. Given the fact that the Supreme Court has not rejected such an amendment, it seems to me that given that the language proposed—which is still being worked on, so it may change—is longer than the entire Bill of Rights and is not the language of a constitutional amendment—at least any that I have seen—why don't we try to refine the statute rather than move to a constitutional amendment with such alacrity?

Professor Tribe said a statute would not work. I have not seen that. I have seen, in my State and many others, victims' rights statutes work and work very well. That is my question to the Senator from California. I thank the Senator for her graciousness.

Mrs. FEINSTEIN. First, I think the Senator knows I have very deep respect for him. If I am fighting a battle, he is certainly one I would like to have in the trench with me.

Mr. SCHUMER. And usually I am there.

Mrs. FEINSTEIN. There is always room in the trench to change his mind, if the Senator cares to. I do appreciate his concern and his testimony does carry weight with me. As a matter of fact, it was Senator SCHUMER's comment in the RECORD that I referred to last night when I addressed and talked with the attorneys in Oklahoma City today who represented the victims—Professor Cassell was one of them—and got that chronology.

To me, the reason the statute won't work is because it hasn't worked. Both Houses of Congress, and even the redoubtable intelligence of the Senator in working on both the 1990 and the 1997 statute, rendered both a nullity by the Tenth Circuit. Therefore, they were victims in that entire circuit and are effectively left without a remedy, and the belief is that it would be difficult in that circuit, based on the precedent that has been set, without providing standing for victims in the Constitution under article III, to have a successful statute.

Now, I don't believe many victims have the wherewithal to get a professor of law at a distinguished university and a Washington law firm. The people who are going to be the most impacted by this are poor, are minorities, where most of the crime victims, after all, really are in the Nation. So the ability for them to get redress under a statute, I think, is effectively quite limited.

Addressing the second part about the drafting of this article, we have been at this for 4 years. There are 800 pages of testimony, as I have mentioned. I ask Senator KYL, how many meetings does the Senator believe we have had with the Justice Department in the last 4 years over the wording in this?

Mr. KYL. Mr. President, if you count all of the informal meetings and various meetings back and forth with staff, certainly it would be well over a dozen.

Mrs. FEINSTEIN. So we have had at least a dozen meetings with Justice. The concepts are the authors', and much of the writing is actually a product of those meetings with the Justice Department. In fairness, staff has changed over the years. We worked with one assistant U.S. Attorney General, and that person has changed, and so on and so forth. We have also worked with White House staff. The basics of the amendment that the Senator questions as being burdensome in verbiage is really very simple: to reasonable notice of, and not to be excluded from any public proceedings relating to the crime; to be heard, if present; to submit a statement at all such proceedings to determine a conditional release from custody and acceptance of a negotiated plea or sentence.

I might say that this was gone over with precision and detail with Justice as to whether a plea bargain would be effected; the foregoing rights in a parole proceeding that is not public to the extent these rights are afforded to the convicted offender; the reasonable notice of and an opportunity to submit a statement concerning any proposed pardon or commutation; reasonable notice of escape or release from custody. I will say the pardon has not been worked out with Justice, and there are some negotiations going on about that right now. But notice of release or escape; consideration for the interest of the victim; that any trial be free from unreasonable delay—there was considerable discussion through Senator KYL, ourselves, attorneys for the victims, victims' rights groups, as to not to create a problem there. And the words ''to consideration of the interest'' were added to avoid any problem. To order restitution, to consideration for the safety of the victim in determining any conditional release from custody, and to notice of the rights: that is essentially the bulk of the basic rights. The rest sets up a vehicle.

Now, we have heard two Senators come to the floor and say: ''Who would define a victim?'' We have to write in this that the Congress shall have the power to enforce this article by appropriate legislation. So the Congress would enforce the article. And some of that language, by way of clarification, is added.

This is not 1791; it is the year 2000. Fortunately, since 1791, there is court precedent. There is now definition of

language in the law that has been predetermined, and it is much more complicated, I think, to write this kind of language than it was way back when.

Mr. SCHUMER. Mr. President, I thank the Senator for her answer, and I simply make three points. Before I do, I want to refer to a letter from Chief Justice Rehnquist in opposition saying that a statute would be far preferable to a constitutional amendment. This letter is to Judy Clarke, President of the National Association of Criminal Defense Lawyers. I will read it:

I have received the letter of March 21, commenting on various measures pending in Congress relating to the judiciary. The Judicial Conference has recently taken a position in favor of making provision for victims' rights by statute, rather than by constitutional amendment; this would have the virtue of making any provisions in the bill which appeared mistaken by hindsight to be amended by a simple act of Congress.

It makes the very point. The Senator admitted that negotiations are still ongoing. We are debating a constitutional amendment that must be passed by two-thirds of each Chamber and then three-quarters of the States. We are still debating the language.

Mrs. FEINSTEIN. Will the Senator permit me to respond?

Mr. SCHUMER. I will in one second. I want to finish my statement.

First, the kind of definitions that the Senator has talked about of appeals procedures has never been in the U.S. Constitution. In fact, what happened before is there would be a two- or three-line sentence that the rights of victims should be protected, and then we would work out by statute what the details were.

I have never seen a constitutional amendment such as this. It is the 21st century. I agree with that. But that doesn't mean the elegance of thought and language in the Constitution of the 18th century should be thrown out the window, and we are doing that here.

I ask the Senator, why, if she believes in a constitutional amendment with a two- or three-line amendment talking about victims' rights, would she not be far more in keeping with constitutional thought and theory than a 15-page document which clearly is written in statutory and not constitutional language? Second, if the detailed definitional language that the Senator is talking about works, it will work as a statute.

The reason the Oklahoma City case didn't work is the statute was poorly drafted, at least in terms of what the Senator is saying. I will have more to say about that later. I don't want to occupy her time on this, but if the language works as a constitutional amendment, the very language that we have before us admittedly being rephrased or redrafted, why doesn't it work as a statute?

The problem that is pointed to in the Oklahoma City case is not the amendment. If the very same language were a constitutional amendment, God forbid, it still wouldn't have been applied because the judge didn't throw it out on an unconstitutional basis. He basically ignored it, which meant it wasn't clear enough.

No. 1, do we have any amendment in the Constitution that compares in detail and outlines procedurally what we have here?

No. 2, if this language works as a constitutional amendment, why wouldn't it work as a statute?

No. 3, if a constitutional amendment is necessary, although again it has not been thrown out by the Supreme Court, or any lower court, why wouldn't we have a simple, elegant three-line statement talking about the rights of victims, and then let the details of legislative engineering be worked out in statute as it has been done in this country, regardless of whether Democrats, Republicans, Whigs, or Free-Soilers, or anybody else has been in charge?

I thank the Senator for her patience. I feel as passionately on our side as she does on her side.

Mrs. FEINSTEIN. I am going to defer to the distinguished Senator from Arizona to give the opening response, and then I would like to finish up, if I might.

The PRESIDING OFFICER (Mr. HAGEL). The Senator from Arizona.

Mr. KYL. Mr. President, before she arrived at noon, I had shared some specific comments that go directly to Senator SCHUMER's questions. I thought I would repeat what I said here in brief.

The first objection is that this is too wordy. It is not 15 pages. It is about 2⅕ pages. But the total number of words that describe victims' rights is 179. The total number of words in the amendment, except for the technical provisions regarding the effective date, is 307. If you add them all up, it is 394 words. Again, 179 of those words describe the victims' rights. The defendants' rights consume 348 words in the U.S. Constitution. The Bill of Rights is 462 words. If you add it up word for word, we win, as I said this morning. But that, obviously, is hardly a way to evaluate.

Mr. SCHUMER. It shouldn't be 2⅕ pages, it should be 2⅕ lines in keeping with the way the Constitution is written.

Mr. KYL. That is the second point. We are criticized on two accounts. We literally can't win. On one hand, the Senator from New York and others have said it is subject to interpretation. What does ''reasonable'' mean? On the other hand, we have written too much. We ought to just say ''reasonable rights'' and then flesh it out in statute. We can't win, if that is the argument.

What we have done, I submit, is the compromise that the Founding Fathers did. They expressed general terminology in order to keep it short and succinct, understanding that it would have to be fleshed out. But what we have done is to describe in enough additional detail to ensure that there could never be a contention that we are infringing on a defendant's rights and to be sure there would never be a criticism that we weren't specific enough about what these rights were. So we have actually enumerated these eight specific rights. But I think we have struck the right compromise in that regard.

Two other quick points, if I may: The Senator correctly pointed out that it appears one of the reasons for the judge's decision in the Oklahoma City bombing case was that he just ignored it. I think it is hard to figure out exactly why he didn't apply it. He couldn't ignore a U.S. constitutional provision as he could ignore a Federal statute, which is precisely why we need a Federal constitutional amendment. It may also be that the Oklahoma City statute was not well enough drafted. I think that is exactly correct as well. It is no answer to say that a statute would be the way to go here, that it is better than a constitutional provision.

The bottom line is this: In words somewhat similar to those words that protect the rights of the accused, we have identified eight specific rights. I have yet to see anybody say those eight specific rights should not be guaranteed. Rather, the argument is that they should be put in statute. Senator SCHUMER has just pointed out why putting it in statute doesn't work.

Mr. SCHUMER. If the Senator will yield, I think this should be a debate that goes on for some time. That is what we are having here as opposed to everyone making speeches periodically. I very much appreciate that and would be happy when I come to the floor to yield time to opponents of the bill to continue this debate.

But I would simply say to my good friend from Arizona that a statute is no less the law of the land than a constitutional amendment. The idea that a constitutional amendment should be taken into account more than a statute doesn't hold up in terms of jurisprudence. I am sure even my good, mistaken friend in this case, Larry Tribe, would agree with that. But for whatever reason, one judge ignores a statute. The Senator is right. It is murky. It is hard to figure out why. We then leap to a constitutional amendment, one with almost as many words as the entire Bill of Rights. It doesn't make any sense to me.

I ask the Senator: Because a judge in Oklahoma City, a case I care very much about, ignored statutory language, why don't we try once again? Why don't we try, whether that case was on appeal, or in another way, to make sure that judges can't? You could easily write a statute that says the right of allocution is not granted. You can't proceed with sentencing. If some judge somewhere—I doubt there would be one—should refuse to apply that law, you would win on appeal, pardon my saying, in a ''New York minute.'' A constitutional amendment doesn't give any more authority for a judge to apply than a statute. The whole reason

we have constitutional amendments, as laid out by Larry Tribe, is for restructuring the Government. It is guaranteeing a basic right that couldn't be guaranteed otherwise.

I yield to the Senator from California to answer. But because a judge ignores a statute in one case, how do we then leap to a constitutional amendment?

Mrs. FEINSTEIN. I think that is a very important question. I am sure I cannot answer as adequately, but let me try. I think any statute lasts a ''New York minute.'' Let me state why.

I think there is bureaucratic inertia. At our caucus yesterday, to be very frank, I was amazed at Members' reactions. We are trying to give victims certain basic rights. I almost came out of the caucus feeling somewhat un-American because I am trying to do something that can stand the test of universal time to improve a very convoluted, difficult administration of justice process in this country, to ensure victims a certain participation in the process.

Mr. SCHUMER. We all want to do that. The question is the method. The issue is not whether we want to give victims' rights or not.

Mrs. FEINSTEIN. I grant that the 1997 clarification act, which, as I understand it, meant to say that a victim could both be present in court and make a statement, was simply not answered; it was ignored.

The 1990 victims' rights amendment was a more considered bill, developed over a period of time, and was the one with which the Tenth Circuit essentially said that victims lack standing under article III because they had no legally protected interest to be present at the trial and had suffered, therefore, no injury.

I don't know how one remedies by statute to withstand the test of time, the bureaucratic inertia, the equivocation that goes on.

From 1850, we have a century and a half in this country where victims have had no rights in the process. The process has locked itself. The Senator is right, some district attorneys don't want to be responsible to send a victim or say, Give me your address and phone number if you want to come to court; I will notify you. Then it is up to the victim to provide that and be there at the appropriate time. Many don't want to do that.

What makes me very suspect is, that reaction is disproportionate to what we are trying to achieve, which is basically status rights. It is not like the right to counsel, not like a right of a jury of your peers, it is not like protection against double jeopardy or unreasonable search and seizure. Those are very ''meaty'' rights that defendants have that should be provided, including the right to be present, the right to make a statement—pretty simplistic rights.

Mr. SCHUMER. No question; I agree with the Senator, those are simplistic and they should be enshrined in law. I have spent a good number of years in the other body trying to make that happen.

When the Senator asks, why is there such passion against this amendment, please do not mistake it for the substance of the amendment. There may be some who believe that, but not me, and I don't think that is the mainstream of the opposition for both Republican and Democrat.

Mr. KYL. If I might interrupt, all of this is on my time, which is fine with me. It is a good exchange, and I agree with the Senator from New York, this is the right way to debate the subject. I am happy to have the Senator finish his thought, but I want to respond to a question asked some time ago.

Mr. SCHUMER. Mr. President, I ask unanimous consent to respond using 3 minutes of my time.

Mr. KYL. That is fine.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New York.

Mr. SCHUMER. Mr. President, I say to the Senator, passion is passion. There is not a lack of passion for victims' rights but a passion for this wonderful, noble document, the Constitution of the United States. I say this in all due respect.

I think if this amendment were added, it would cheapen the Constitution—not cheapen the issue of victims' rights, which is important, but we have never done this before. The passion goes to the beauty of the Constitution, to the fact that we have never added a constitutional amendment, because two judges failed.

The Senator was good enough to mention that 1990 case. One lower court judge said it might not fit with article III. Again, don't leap to a constitutional amendment. If we were to have constitutional amendments every time a lower court judge ruled that something was unconstitutional, we would have a Constitution of the United States that would be 10 volumes long. We would spend all of our time revising that Constitution. I daresay the structure of government could fall because we need two-thirds, two-thirds, three-quarters to do it.

The passion here is on a fundamental difference about what the Constitution of the United States means. I would be the first to join the Senator if the U.S. Supreme Court said the same thing that lower court said in 1990. But one lower court in 1990, one lower court in 1997, and now we say let's double virtually.

Mrs. FEINSTEIN. Circuit court.

Mr. SCHUMER. A circuit court in 1990, two lower courts, but no U.S. Supreme Court.

I would join the Senator if the Supreme Court said the same thing. I agree with her that victims' rights should receive a higher elevation in the pantheon of criminal justice. But now the issue is not ripe. The Supreme Court hasn't ruled defendants' rights trump victims' rights. We have had two poor attempts to draft legislation.

To their credit, the Senator from California and the Senator from Arizona have come up with a better proposal. They have still not addressed, to my satisfaction, why we need to do a constitutional amendment when I think a statute would do exactly the same job and could be passed more quickly. One would not need the two-thirds. We could get this done. If then someone fought the statute and the Supreme Court of the United States ruled it unconstitutional, we would all be on the floor supporting this amendment.

The passion, to answer the Senator, was a passion for the way of the Constitution, a passion that we do not amend the Constitution unless we absolutely have to. That does not go to the need to give victims more rights. That goes to the fact that none of these victims' rights laws has been declared unconstitutional by the highest court of this land or where it would still be legitimate by State supreme courts.

I think my 3 minutes have expired. I will continue the debate with the Senator from Arizona and the Senator from California. Again, I respect their motivations, I respect their substantive position, but please, God—please, God—let us not be precipitous in amending this great U.S. Constitution when there is another, quicker, and just as efficacious way to accomplish the well-thought-out goal of our Senators.

I reserve the remainder of my time.

Mr. KYL. Mr. President, I think the Senator from New York has made an excellent presentation. As a matter of fact, that is the presentation I made about 4 years ago when a very fine attorney in Arizona came to me and said these State constitution provisions in statute are not working, we need a Federal constitutional amendment. I made essentially the same argument, probably not as eloquently as the Senator from New York.

I share with the Senator both the concern for victims' rights and a concern for the U.S. Constitution not being unduly tampered with. We all acknowledge that it can and sometimes should be amended. However, it should be done only when necessary. In that we all agree.

He made the case to ask the question, Why not a statute? I respond to that in three quick ways.

First, let's get one thing out of the way. We do not want to amend the Constitution only when there has been a finding by the U.S. Supreme Court that some action we want to take is unconstitutional. Of course, there are not findings that State constitutional provisions or statutes are unconstitutional. There would be no reason for that. None of them conflicts with defendants' rights. That is the only basis on which I can think they would be declared unconstitutional. No one wants to conflict with or hurt defendants' rights.

There is no reason to expect any provision will be declared unconstitutional. There is a problem with respect to precedent, and that is, the Tenth Circuit has held there is no standing to enforce a Federal statute that the Senator from New York helped to draft. That is a problem.

Now I believe in seven different States victims do not have the standing to assert rights we provided in a Federal statute. That is bad. That is a precedent we need to overturn and can overturn with a constitutional amendment.

The third point in this respect is that the problem is not that there has been or ever would be a finding of unconstitutionality with respect to these statutes or provisions. It is, rather, that they are just not enforced. As somebody said, they are enforced more in the breach than in the observance. That is the problem. Not that there is unconstitutionality.

Let me do the other two things I wanted to do. I see the Senator from Vermont is standing.

Mr. LEAHY. I wonder if the Senator will be willing to yield just for a moment to the Senator from Hawaii.

Mr. KYL. I yield to the Senator from Hawaii.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. AKAKA. Mr. President, I rise to yield my time under the present measure to the Senator from Vermont, Mr. LEAHY.

The PRESIDING OFFICER. The Senator has that right.

Mr. KYL. As soon as I conclude these two points, again I am happy to allow the Senator from Vermont to speak. I was waiting for this last hour or so and thought we would take up the time, and Senator SCHUMER has provided a very important challenge. Why not a statute? I provided the first answer.

Second, let me provide the answer from a piece Paul Cassell wrote, offered earlier by Senator FEINSTEIN. He said:

> In theory victims' rights could be safeguarded without a constitutional amendment. It would only be necessary for actors within the criminal justice system—judges, prosecutors, defense attorneys, and others—to suddenly begin respecting victims' interests. The real world question, however, is how to actually trigger such a shift in the Zeitgeist. For nearly two decades, victims have obtained a variety of measures to protect their rights. Yet, the prevailing view from those who work in the field [including the Justice Department in this fine volume, New Directions from the Field] is that these efforts ''have all too often been ineffective.'' Rules to assist victims ''frequently fail to provide meaningful protection whenever they come into conflict with bureaucratic habit, traditional indifference, or sheer inertia . . . '' The view that state victims provisions have been and will continue to be disregarded is widely shared, as some of the strongest opponents of the Amendment seem to concede the point. For example, Ellen Greenlee, President of the National Legal Aid and Defender Association, bluntly and revealingly told Congress that the State victims' amendments ''so far have been treated as mere statements of principle that victims ought to be included and consulted more by prosecutors and courts. A state constitution is far . . . easier to ignore than the federal one.''

A fortiori, as we lawyers say, a statute is far easier to ignore than the Federal Constitution.

Just citing a couple of more points in Paul Cassell's piece, he quotes from the Department of Justice, the Attorney General herself. The Department finding that these various efforts—the State and Federal and statutory and constitutional provisions:

> . . . have failed to fully safeguard victims' rights. These significant state efforts simply are not sufficiently consistent, comprehensive, or authoritative to safeguard victims' rights.

I would intersperse that a Federal statute, of course, is in the same category. In fact, it is of a slightly lower category than a State constitutional amendment in the State courts. In any event, with respect to the number of crimes of violence in the Federal system, you are only talking about approximately 1 percent of the crimes. So clearly a Federal statute does not give you anything that these State statutes do not.

But here is the point, and I continue to quote here:

> Hard statistical evidence on non-compliance with victims' rights confirms these general conclusions about inadequate protection.

In other words, now let's go to the tape. Let's look at the numbers, not just the conclusions reached by scholars.

> . . . the National Institute of Justice found that many crime victims are denied their rights and concluded that ''enactment of State laws and State constitutional amendments alone appears to be insufficient to guarantee the full provision of victims' rights in practice.''

Here are the statistics. For example:

> . . . even in several States identified as giving ''strong protection'' to victim's rights [like my State of Arizona and Senator FEINSTEIN's State of California] fewer than 60 percent of the victims were notified of the sentencing hearing and fewer than 40 percent were notified of the pretrial release of the defendant.

Fewer than 40 percent. Would we consider that a good enough job in notifying defendants of their right to counsel? Would we consider, if the police in 40 percent of the cases remembered to give the Miranda warnings, that that would be OK? Absolutely not. That is the fundamental difference between a constitutional right and a statute, or a State constitutional provision. They just are not enforced with the same degree of vigor and consistency and care as the U.S. Constitution must be and is. So we find that 40 percent of the people who ought to be notified that their assailant is about to be released from prison never get the notice. That is in the good States. That is not good enough. After 18 years of experience with this, we ought to appreciate that statutes and State constitutional provisions just have not done the job.

That is the second reason. I will get to the third one. But that is the second key reason why the Senator's question, Why not a State statute or State constitutional amendment or Federal statute? just has not worked. I will be happy to yield to the Senator from New York.

Mr. SCHUMER. Just a quick question. One thing we obviously do, and we have gotten much better enforcement on a whole lot of Federal statutes, is say that they will lose all Federal crime money if they do not notify the victim.

Mr. KYL. I am sorry?

Mr. SCHUMER. What I was proposing—I think the present statutes are not working. I think they were poorly done. One way to get enforcement, a good way that we have used in this body over and over again, which has not even been tried yet, is to say the State would not get crime money, whether it be for Cops on the Beat, for building prisons, for Byrne money for the DAs, if they don't notify the victims. The State would do much better than 40 percent.

The reason this statute has not worked is no one has put any teeth into it. Why do we not put some teeth into it before jumping to the Constitution? I yield.

Mr. KYL. First of all, the Federal statute applies to Federal crimes which constitute about 1 percent of what we are talking about. Even if you could put good teeth in the Federal statute, you would be dealing with 1 percent of the cases. That leaves, what, 59 percent to go, by my calculation.

Second, these State constitutional provisions are very well written. The one that we have in Arizona was adopted with between 70 and 80 percent of the vote, the one that has been adopted in California and these other States—they are very good. It is not that they are not well written. The question is, Why should you have to have a penalty for somebody, for a judge who fails to provide the notice, for example? Why should we deny Federal law enforcement support when everybody knows that is really needed? It is not a good enforcement mechanism. The best enforcement mechanism, of that which we consider to be fundamental rights, is the recognition that they are embodied in the U.S. Constitution and nobody wants to deny those. If 40 percent of the people who should get notice under State constitutional provisions get notice, something is drastically wrong. Until you put that in the U.S. Constitution, it is not going to change.

Mrs. FEINSTEIN. If the Senator will permit me, because I think he so well outlined that, I want to add one thing. No matter what we craft—we have taken two cracks at it and missed. Maybe the third time will either be another strike or a home run. I don't know. But, nonetheless, no matter how the statute is crafted, it will affect just 1 to 2 percent of the victims of violent crime all across this great land. For me, that is a very great problem.

Mr. SCHUMER. If the Senator will yield for a second, we have crafted many other criminal justice laws where we told the States, unless they did A, B, and C, we would take away their Federal money, and they did it. Drunk driving laws, sex offender laws—we can affect all 100 percent by using the tool of Federal money.

I yield back.

Mrs. FEINSTEIN. Then I think it is the wrong tool for what is a basic human right against government because it is government that refuses these people access. I think then you have to monitor government, and it would take a whole new bureaucracy to monitor government to see every notice was sent out and every change of address and that kind of thing. But I want to read a statement from someone who you do respect. I know you respect Professor Tribe. In addition, I know you respect the Attorney General of the United States. Just before you leave, I want to read a statement:

> Unless the Constitution is amended to ensure basic rights to crime victims, we will never correct the existing imbalance in this country between defendants' irreducible constitutional rights and the current haphazard patchwork of victims' rights. While a person arrested or convicted of a crime anywhere in the United States knows he is guaranteed certain basic protection under our Nation's most fundamental law, the victim of that crime has no guarantee of rights beyond those that happen to be provided and enforced in the particular jurisdiction where the crime occurred.

This is similar to the discussion of how many angels dance on the head of a pin. I supported the first State constitutional amendment in 1982. It is now 18 years later. Even by constitutional amendments, what Senator KYL said about 60 percent and 40 percent of victims being responded to is really correct. We believe it is never going to be enforceable, it is never going to be carried out. The bureaucratic inertia is too great, the system is too ingrained, and the Constitution of the United States should not be so static and so immutable that people who have suffered violence do not have a right in a court of law. That is what we are about. Thank you.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. I thank the Chair. Mr. President, I wish to start by acknowledging the outstanding statements that were made during the course of yesterday's debate. Senators DORGAN, FEINGOLD, SCHUMER, DURBIN, MOYNIHAN, and THOMPSON each made a significant contribution to this debate. I thank them for sharing their views on the Constitution.

Before we go on in this debate, and before we get to the actual vote on the motion to proceed, I want to mention a couple issues that need to be considered:

One, who is a victim for purposes of the proposed constitutional amendment, and secondly, what does the amendment mean to prosecutions?

We asked the Congressional Research Service. This is what they said:

> [S.J. Res. 3 leaves] to another day the definition of ''victim'' for purposes of the amendment. . . . It is yet unclear whether S.J. Res. 3 . . . will wipe the slate clean or simply supplement existing law and whether it will trump conflicting defendant constitutional rights or if the need to accommodate both will in rare instances preclude prosecution in order to avoid conflict.

Think about that. CRS says under this amendment there are times when one might not be able to prosecute at all because of a conflict in its wording.

I do not know how stopping a prosecution with this amendment helps a victim in any way, shape, or manner.

What I wish instead is for those who share the concerns as I do for the victims of crime to join with me in finding a way to achieve progress without damaging our Constitution. I hope that even the most ardent proponents of this proposed constitutional change will try to find the best language possible. As Senator TORRICELLI said during debate on the so-called balanced budget amendment in 1997: ''Good is simply not good enough when we are amending the Constitution of the United States.'' I agree. Constitutional amendments should be held to a much higher standard than simply what is good.

Every one of us begins a Congress by swearing that we ''will support and defend the Constitution and bear true faith and allegiance to the same.'' We are honored by the constituents of our States. They allow us to serve here. We have that duty, if they allow us to serve, to honor and defend the Constitution.

But the oath does more than that. It recognizes our obligation to the great constitutional tradition of the United States and for those who forged this wonderful document. Our oath recognizes our responsibility to those who sacrificed to protect and defend our Constitution, but it is also our legacy to those who will succeed us.

No Member of this body owns a seat in the Senate. One-hundred of us are privileged to represent 250 million Americans. In days and years to come, others will take our places. Not only do we have to honor the commitment of those who put us here now, but we have to make sure we preserve the legacy for those who come after us.

I am afraid, as we see more and more constitutional amendments come down the pike—we have had 11,000 proposed since this country began—that we run the risk of our Constitution, which has served this Nation so well for over 200 years, being treated by the Senate as a rough draft rather than as the fundamental charter of this great and good Nation.

Over the last 6 years, this institution, the Senate, has been acting as though the Constitution is no longer serviceable, as though it needs some kind of major overhaul, as if we fortunate few who have been chosen to represent the people of our States since coming to Washington have acquired some special wisdom that makes us smarter than all the patriots and all the public servants who preceded us and wiser than the legislatures of all of our States, and certainly more knowledgeable than the founders of this Nation.

In 1995, the Senate debated and rejected three proposed constitutional amendments—H.J. Res. 1 on budgeting, S.J. Res. 21 on congressional term limits, on which cloture was immediately filed but was not invoked, and S.J. Res. 31 regarding the flag. Since that time, the Senate Judiciary Committee has continued to report proposed amendments at a record clip, and the Senate has been called upon to reaffirm its rejection of a proposed constitutional amendment on budgeting and to debate and vote on a proposed constitutional amendment on campaign finance.

Last year, the Senate devoted several weeks to an event of truly constitutional magnitude. That was the impeachment trial of the President. This year the pace of constitutional proposals has accelerated again. This is the third proposal to amend the Constitution that the Senate has been asked to debate in the last 30 days alone—the third constitutional amendment in the last 30 days. We could turn ourselves into another country, as referred to on this floor yesterday when the distinguished senior Senator from New York said that country's constitution changes so rapidly that the libraries should find it under periodicals.

In 1995, when he was to cast the decisive vote against a constitutional amendment on budgeting, Senator Mark Hatfield of Oregon came to the Senate floor to explain how he would vote. My dear friend of over 20 years said:

> The debate on the balanced budget amendment is not about reducing the budget deficit, it is about amending the Constitution of the United States with a procedural gimmick. . . . As I stated during the debate on a balanced budget amendment last year, a vote for this balanced budget amendment is not a vote for a balanced budget, it is a vote for a fig leaf.

Then Senator Hatfield concluded by saying:

> Voting for a balanced budget amendment is easy, working to balance the budget will not be. The Congress should not promise to the people that it will balance the Federal budget through a procedural gimmick. If the Congress has the political will to balance the budget, it should simply use the power that it already has to do so. There is no substitute for political will and there never will be.

My friend from Oregon was right. But the same could be said about crime victims' rights. Supporting a crime victims' rights constitutional amendment is easy, but working to ensure that crime victims are afforded their rights and that the protective provisions of law are implemented, that is something else again. That takes real effort. It takes on-the-ground implementation and the dedication of the necessary resources and effort.

We have had profiles in courage on constitutional amendments on this floor. Last month, the distinguished senior Senator from West Virginia, Senator ROBERT C. BYRD, showed courage and commitment to constitutional principles when he voted against S.J. Res. 14, a constitutional amendment regarding the flag. I was fortunate to be present during his extraordinary statement on March 29. During that statement he counseled the Senate, but he also counseled the Nation on how to approach proposals to amend the Constitution.

I said then that his statement was a great history lesson and example of political courage because Senator BYRD was reconsidering his vote. I must admit, much as I enjoyed his observations, much as I learned from them, I did not know they would be so instructive again so soon.

With respect to this proposed constitutional amendment on crime victims' rights, there is an open secret in this body; and that is, a number of Senators have begun conceding privately, many over the last several weeks, that they have personal misgivings about voting for this proposed amendment. They know that it is not necessary. They know that it does not meet the standard of Article V of the Constitution to justify constitutional amendments. It is not that necessary amendment of which Article V speaks.

Some of these Senators, people I respect greatly, on both sides of the aisle, admit they joined as cosponsors because it is popular, because there seemed little reason not to, or because another one of the sponsors had persistently urged them to do so.

But as one who has served a long time, as one who has certainly made his share of mistakes in votes or positions, but as one who has had the privilege to vote on this floor more than 10,000 times, I say to each of those Senators, including those who cosponsor this proposed constitutional amendment, that you have succeeded by your efforts in bringing this matter to debate before Congress. I say this most sincerely to the cosponsors, this debate can result in greater recognition of crime victims' rights. They could do that without amending the Constitution.

I also say, respectfully, that now it is time to debate and to consider that debate and decide how you will vote, whether you are a cosponsor or not, because how each of us votes and how the Senate acts is what is now the question. Each Senator is responsible for his or her own vote. Nobody can tell any one of us how we must or must not vote.

But for each of us, we should understand that if we vote on a constitutional amendment, that is one of the most important responsibilities we will ever exercise as an elected representative. It is a significant factor in the Senate legacy that each of us creates, but it is also what contributes to the lasting legacy of our Constitution.

As Senators—the 100 of us—we are custodians of the Constitution. It is a responsibility we should allow to weigh heavily on our shoulders, not to be exercised lightly. Each of us should take seriously our responsibility to defend the Constitution.

I have often said that rather than amending the Constitution we should conserve the Constitution. No Senator should rely on 34 others to do the right thing and preserve the Constitution. Senators should cast their votes only for a constitutional amendment that they can wholeheartedly support, that they can honestly say they understand, and whose implementation and impact they are confident they can fully anticipate. I say to my colleagues, with all due respect, very few of us could answer that challenge and vote for this constitutional amendment.

The Constitution is not a bulletin board. It is not an automobile bumper on which to affix currently popular slogans. A vote on a constitutional amendment is not something to be cast blithely. When it comes to amending the Constitution, the popular vote is not necessarily the right vote. The founders of this Nation knew that. That is why they put various hurdles before us to amend the Constitution.

Let us not sacrifice the traditional guarantee against an overreaching Federal Government that our Constitution provides and sacrifice it to a popular siren song. Rather, let us turn to the work needed to be done to provide those rights that crime victims need in the Federal system and provide the incentives for their implementation in the States' criminal justice systems. There is no need for a constitutional amendment to achieve these goals. We can achieve these goals without amending our Constitution.

A constitutional amendment is not like an ordinary statute. A statute you can revisit. You can say next year: We were a little bit wrong in that. Let's redo it. You can tweak it. You can revise it. You can amend it. You can change it. You can repeal it.

It is not so with an amendment to the Constitution. Here we are dealing with something else. This is not a commemorative resolution. This is not one of those things we rush down to the floor and say to somebody: Which amendment is this? Oh. And then voting yes or no. This is a constitutional amendment.

I think if we are going to change the fundamental charter of this great Nation, we ought to step back a little bit, step back from the political passions of the moment. We are debating a constitutional amendment. We are not endorsing the popularity of a notion or a goal.

The Constitution of the United States is a good document. It is not a sacred text. But I would say in a democracy it is as good a law as has ever been written. That is probably why our Constitution is the oldest existing Constitution today. It has survived as the supreme law of this land with very few alterations over the last 200 years.

Just think, more than 11,000 amendments have been proposed—many very popular at the time—but only 27 have been adopted; only 17 since the Bill of Rights was ratified over 200 years ago.

What have we gotten out of this? We have a Constitution that binds this country together rather than pushes it apart. It contains the Great Compromise that allowed small States, such as my State of Vermont, and large States, such as the State of the distinguished Senator from California, to join together in a spirit of mutual accommodation and respect.

I believe the State of Vermont may have had more population when it was admitted than the State of California. How much changes over time. That Great Compromise guaranteed that every State would have a voice in this wonderful body, the Senate, this place I love so much and will miss so greatly when I leave.

The Constitution embodies the protections that make real the pronouncements in our historic Declaration of Independence and give meaning to our inalienable rights to life, liberty, and the pursuit of happiness.

These are not just simply words we hear in Fourth of July speeches. These are the words that make up the bedrock of this great Nation.

The Constitution requires due process. It guarantees equal protection of the law. It protects our freedom of thought and expression, our freedom to worship as we want, or not, if we want. It also protects our political freedom. It is the basis for our fundamental right of privacy and for limiting Government's intrusions and burdens in our lives.

The provisions incorporated in the Bill of Rights ensure that Government power is not used unfairly against anyone. These provisions have protected us for over 200 years.

Mr. DURBIN. Will the Senator yield for a question?

Mr. LEAHY. Of course.

Mr. DURBIN. I first commend the Senator from Vermont for his leadership on the Senate Judiciary Committee and the fact that he has taken this debate over this proposed constitutional amendment so seriously. Senator LEAHY has been a leader not just in terms of the Democratic side but in terms of the Senate, to make certain that although a handful of Members have come to the floor to consider a matter of this gravity, he has been here day in and day out.

My question to him goes to a point he has made so eloquently today in his statement and before. It is about the nature of this amendment. Is it true that this proposed constitutional amendment before us is longer in length, has more words in it, than the entire first 10 amendments to the Constitution known as the Bill of Rights?

Mr. LEAHY. It comes very close to those first 10 amendments. The example I used: When we look at copies of

the Constitution, going to the Bill of Rights, the 4 or 5 lines in the first amendment, this goes 66 or 67 lines. This is a long, complicated statute. This should not be a constitutional amendment.

Mr. DURBIN. Is it true that the handiwork of James Madison and Thomas Jefferson in crafting the first 10 amendments to the Constitution, the Bill of Rights, the wisdom that has endured for over two centuries, is going to be rivaled, or is at least close to being rivaled, in length by this one amendment that is being proposed?

Mr. LEAHY. The Senator from Illinois is absolutely correct. That has been the case through the 63, 64, or 65 drafts of it, as it has worked its way through here.

Mr. DURBIN. I further ask the Senator from Vermont, it is my understanding that at least 63 different drafts of this amendment have been circulated around the Senate before it came to the floor today. Word has it that draft No. 64 is on the way, which we might get a chance to see before we vote on it. My question to the Senator is, in terms of victims' rights, does this not suggest that it would be better for us to have a statute rather than to amend the Constitution of the United States, if it takes so many pages of wording to address the concerns of the sponsors of this amendment?

Mr. LEAHY. I would much prefer a statute because, as the distinguished Senator from Illinois and the distinguished Senator from West Virginia know, a statute could be easily changed. It could easily be repealed, if we are wrong. In fact, if the Senator from Illinois will bear with me, I want to follow up on what he was saying. As an old printer's son, I made sure we had the same typeface on both sides of this chart. On the left side is the Bill of Rights; on the right side is the proposed constitutional amendment. Here is the Bill of Rights, all 10, and here is the constitutional amendment. They are just about the same length.

Mr. DURBIN. Will the Senator yield for another question?

Mr. LEAHY. Of course.

Mr. DURBIN. Despite the length of this amendment, the fact that it has been through 63 or 64 different versions, it is characterized as a constitutional amendment to protect the rights of crime victims. In this proposed amendment to the Constitution, is the word ''victim'' defined? Do we know what we are talking about in terms of what is a crime victim or who is a crime victim?

Mr. LEAHY. Mr. President, I say to my friend from Illinois, there is no definition of the word ''victim.'' I must admit, as a former prosecutor, that is the first thing I look for. We all know that ''victim'' means different things to different people. It is not in here.

Mr. DURBIN. I ask the Senator from Vermont, is it not true that under Federal statute there are at least two or three different definitions currently of what ''crime victim'' might be?

Mr. LEAHY. The Senator from Illinois again is absolutely correct. They are defined very carefully in the statute because you have different remedies for different situations. You have different situations in which victims are defined differently. That is why we need a statute.

Mr. DURBIN. Is it not interesting that if we are going to give a constitutional right to a crime victim without defining who that victim might be, we are giving, under this proposed amendment, such things as the right to notice of criminal proceedings, so that the Government has a responsibility to notify people, without a definition of who those people might be or what class of people might be included?

Mr. LEAHY. The Senator from Illinois is absolutely right. It is one of the reasons why so many prosecutors have opposed this, but also why many victims groups have opposed this. They believe it is unworkable.

Mr. DURBIN. Will the Senator from Vermont also give me his thinking about section 1 of this proposed constitutional amendment which outlines and specifies the constitutional right to ''consideration of the interest of the victim that any trial be free from unreasonable delay''?

People such as George Will, a conservative commentator, have asked what in the world this could mean, to give to a victim ''consideration.'' My question is, if you are going to add wording to amend the Constitution, if I am not mistaken, since the passage of the Bill of Rights, which would be the 18th or 19th amendment we have enacted in Congress, whether such vague wording as ''consideration'' of victims is adequate to stand the test of time and trial before the Federal court system.

Mr. LEAHY. I say to my friend, you could probably have 25 constitutional experts who would give you 25 different interpretations of what that word means.

Mr. DURBIN. I thank the Senator from Vermont. Most people, when they think of a crime victim, can obviously identify the victim of an assault or battery or robbery, of course. In a murder situation, does the victim of the crime include the family of the murder victim? You might think it would. But if it is going to include family and relatives of the actual victims of crimes, how large of a net is being cast here to require the Government to give notice of trial to accommodate the scheduling of trials and hearings for this group, that may be rather large if you consider everyone affected by a crime?

Mr. LEAHY. I say to my friend from Illinois, in different cases I prosecuted, especially sometimes in family crimes of incest, rape, of beatings, of murders, sometimes we have a little bit of difficulty to make at least an initial determination of who the victim was and who the perpetrator was. It creates all kinds of problems.

Mr. DURBIN. Is it not true that every State in the Union has at least a statute or a provision in their constitution protecting the rights of crime victims?

Mr. LEAHY. Yes. I say to my friend from Illinois, we may consider sometimes as necessary, under Article V, a constitutional amendment, if the States or Federal Government are unable to do these things otherwise. The fact is, they are doing it very well without a constitutional amendment. Thus, it removes the test of necessity we see in Article V.

Mr. DURBIN. Exactly the question I was going to ask. If we are going to amend the Constitution of the United States to take on this awesome responsibility, a document which all of us have sworn to uphold and defend, should we not be in a situation where there is no other recourse, where we have a situation where State statutes are being stricken, where there is some controversy at hand as to whether or not crime victims across the United States are being accommodated? The test of necessity seems to me to be the threshold test which we should meet before we come together on the floor of the Senate to consider an amendment to the Constitution of the United States.

Would the Senator from Vermont comment on that, please?

Mr. LEAHY. I say to my friend from Illinois that they should meet the test of necessity. I have always felt it meant in the Constitution that the test of necessity should be a high bar. In this case, I don't even think it is a low bar. There is no test of necessity here.

Mr. DURBIN. Is the Senator aware Mr. Will reported in a column recently that this is the fourth time in 29 days that Congress is voting on an amendment to the Constitution of the United States?

Mr. LEAHY. Yes, absolutely; one in the Senate and three in the House.

Mr. President, I know the Senator from Nebraska wishes to yield his time to the Senator from Arizona. I yield for that purpose.

Mr. HAGEL. Mr. President, I ask unanimous consent that my 1 hour of debate be allocated to the distinguished Senator from Arizona, Mr. KYL.

The PRESIDING OFFICER (Mr. GREGG). Is there objection?

Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I thank my dear friend from Illinois for the questions he has asked. He has worked so hard on this. He has spoken, as I said, brilliantly on this matter and I appreciate him coming here.

Earlier this week, I was honored to join in a Dear Colleague letter with the senior Senator from West Virginia. I have referred to Senator BYRD as the Senate's constitutional sage. Senator BYRD has played a leading role in protecting our Constitution over the last several years as it has weathered assault after assault. He counseled the Senate on the so-called balanced budget amendment, which would have been

a travesty. He was right. He has preserved the protection of our separation of powers against the line-item veto. Again, he was right. He showed great courage and wisdom with his vote and statement on the flag amendment on March 29. As I said, I was fortunate enough to join with the distinguished Senator from West Virginia on a Dear Colleague letter. We sent it out on April 24.

I ask unanimous consent that this Dear Colleague letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, April 24, 2000.

DEAR COLLEAGUE: On Tuesday, April 25, 2000, the Senate will begin its consideration of S.J. Res. 3, the proposed victims' rights amendment to the United States Constitution. We are writing to urge you to consider this matter carefully and protect the Constitution by voting against this unnecessary amendment.

Article V of the Constitution establishes the process for constitutional amendment. The process is cumbersome because the Framers intended it to be. Under Article V, Congress shall only propose an amendment to the States if two-thirds of both Houses deem it ''necessary.'' James Madison, one of the principal architects of the Constitution, cautioned that constitutional amendment should be reserved for ''certain great and extraordinary occasions,'' when no other alternative is available.

Of the more than 11,000 constitutional amendments introduced in Congress, only 27 have been adopted. The first 10 were ratified as our Bill of Rights in 1791, 209 years ago. There have been just 17 additional amendments. Despite all of the political, economic, and social changes this country has experienced over the course of more than two centuries; despite the advent of electricity and the advent of the internal combustion engine; despite one civil war and two world wars and several smaller wars; despite the discovery of modes of communication and transportation beyond the wildest fancies of the most visionary framers, this document, the Constitution of the United States, has been amended only 17 times since the Bill of Rights.

No ''great and extraordinary'' occasion calls for passage of this proposed amendment, S.J. Res. 3. Tremendous strides have been made in the past 20 years toward ensuring better and more comprehensive rights and services for victims of crime. Today, there are over 30,000 laws nationwide that define and protect victims' rights, as well as over 10,000 national, State, and local organizations that provide assistance to people who have been hurt by crime. There is no evidence that these laws and organizations are failing to protect victims.

The Constitution creates no impediment to the enactment of State and Federal laws to protect crime victims. Indeed, the proponents of this constitutional amendment cannot cite a single judicial decision that was not eventually reversed in which a victims' rights statute or State constitutional amendment was not given effect because of a right guaranteed to the accused in the Federal Constitution. Moreover, given the extraordinary political popularity of the victims' movement, there is every reason to believe that the legislative process will continue to be responsive to enhancing victims' interests.

Tinkering with the careful system of Federalism established by the Constitution can have far reaching and unexpected consequences. When it comes to our founding charter, history demands our utmost prudence.

Sincerely,

ROBERT C. BYRD,
U.S. Senator.

PATRICK LEAHY,
U.S. Senator.

Mr. KYL. Mr. President, the Senator from South Carolina has asked that I ask unanimous consent, on his behalf, that he may yield his hour of debate to me.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I see the distinguished senior Senator from Connecticut. I yield to him.

Mr. DODD. Mr. President, I will speak briefly, as I know our colleague from West Virginia is going to return to the floor to speak momentarily. As soon as he arrives, I will be glad to yield immediately. At some later point, I will take a little more time to express my views on this issue.

I want to begin with these brief remarks by, first of all, commending my colleague from Arizona and my colleague from California. This is a legitimate issue, in my view. I don't know how many of my colleagues last evening—or in the last two evenings—I can't remember whether it was last night or the night before—saw a news program about the families of the victims in the Starbucks shootings in this city. It was very moving to see these families being considered and their presence during the court proceedings in the disposition of this matter. It was heartwarming for me to see the families have an opportunity to express how they felt about what had happened and what the sentences were going to be regarding those charged with this crime. It is not something that we have seen with great frequency over the years, but it exists because there is a provision within the law in the District of Columbia that gives victims some rights.

To that extent, I begin these brief remarks by saying to my good friends from Arizona and California, I have great respect for the issue they are trying to address—that victims of crime be given the opportunity to be involved in the proceedings where loved ones, family members, people they cared about deeply, who have been victimized, are going to have a chance to be heard and to be involved.

The concern I have is not that they have failed to identify a problem. They have. My concern is with the solution to the problem they have sought. The solution that my good friends from Arizona and California have offered to address this issue is to amend the Constitution of the United States before considering the opportunity of writing statutory language, which might achieve the very same result without amending the cornerstone, the most fundamental document each and every one of us cherish as Americans.

A statute can be changed in a minute if there are problems with it, as time may prove. When you consider the Constitution of the United States, our Founding Fathers wrote the document and made it difficult to amend because they didn't want this to become a statute, an ordinance, a collection of wishes, a place where we would write party platforms. They wanted it to be the embodiment of the fundamental principles we embrace as Americans, and to change it would take herculean efforts.

My concern is that there are already on the books numerous statutes that give victims the right to be heard in this process, as we saw just last evening in the case of the Starbucks crime here in this city. And across the country, such statutes exist. I happen to revere, as I know my colleagues do, the Constitution of the United States. I carry with me every day in my pocket a copy of the Constitution. It was given to me by my seatmate, the distinguished senior Senator from West Virginia. I carry it with me every single day everywhere I go. I constantly remind myself of what I was elected to do, what purpose I am supposed to serve as a Member of the Senate.

The first and foremost of my responsibilities is to protect and defend this Constitution. That is my first responsibility. So when efforts are made to change this document—this thin document which—to protect and defend this Constitution is, in my view, our primary responsibility. We have before us a proposal for a constitutional amendment, which is represented on the left side of this chart. Here is the proposed constitutional amendment.

It is nearly longer than the entire Bill of Rights. The first 10 amendments—the Bill of Rights is shorter than this proposed constitutional amendment. That in and of itself ought to give us pause and cause us to be concerned, to wait and ask: Are we really going to add a provision, given the one issue, and write it into the cornerstone document of this country which has more sections and more words than is included in the Bill of Rights on which all of our individual freedoms are grounded?

I say to my good friends from Arizona and California that I could not agree with them more in identifying for the country in this forum the issue of victims' rights. It deserves and it demands attention, from State legislatures to the United States Congress. But the solution I suggest must first be sought in statutory language. If at the end of the day the statutory language is found to be unconstitutional, then you might consider amending the Constitution. But you don't seek the solution to that problem by amending the cornerstone document of our Nation first. Try the statute first. Let's see if we cannot address this problem through that vehicle and through that process, and if that fails, then come to the Constitution. But don't begin the process there. That, to me, is too dangerous.

We have an obligation to protect victims. We also have an obligation to protect the Constitution of the United States.

For those reasons, with all due respect to my colleagues whom I highly respect and have a great regard for—I have worked with my colleague from California on numerous issues, and with my colleague from Arizona, not as many, but I have a high regard for him, for his abilities, and for his contribution to the Senate—I urge them to take the language they proposed, and let's work with it. Let's see if we can't draft a statute that would allow us to address the legitimate concerns of victims. Write it into the ordinances of our land. Test it in the courts, if you will, but do not tamper at this juncture with the Constitution of the United States.

I see the arrival of my good friend whom I just referred to by thanking him publicly for giving me my copy of the Constitution, which I carry with me.

I yield the floor.

Mr. LEAHY. Mr. President, earlier I put into the RECORD the letter that I was honored to sign with the distinguished Senator from West Virginia explaining why we should not go forward with this amendment to the Constitution.

Let me say one last thing on this. Ours is a powerful Constitution. It is inspiring because of what it allows. It is inspiring because it protects the liberty of all of us.

Think of the responsibility the 100 of us here have. Let us be good stewards. Let's keep for our children and our children's children the Constitution with protections as well considered as those bequeathed to us by the founders, the patriots, and the hard-working Americans who preceded us. Work together to improve crime victims' rights in legislation. Let the States do the same. But let us remember that the 100 of us are the ones who must reserve constitutional amendments for those matters for which there are no other alternatives available, and this is not such a matter.

I yield the floor.

ORDER OF PROCEDURE

Mr. KYL. Mr. President, on behalf of the majority leader, I ask consent that when the Senate receives the veto message to accompany the nuclear waste bill, it be considered as read by the clerk and spread in full upon the Journal and then temporarily laid aside, with no call for the regular order returning the veto message as the pending business in order.

I further ask consent that at 9:30 a.m. on Tuesday, May 2, the Senate proceed to the veto message and there be 90 minutes under the control of Senator MURKOWSKI and 90 minutes under the control of Senators REID and BRYAN.

I further ask consent that the Senate stand in recess for the weekly party conferences between the hours of 12:30 and 2:15 p.m. on Tuesday, May 2, 2000.

I further ask consent that at 2:15 p.m. on Tuesday, there be an additional 30 minutes under the control of Senators REID and BRYAN and 30 minutes under the control of Senator MURKOWSKI and at 3:15 p.m. the Senate proceed to vote on the question ''Shall the bill pass, the objections of the President to the contrary notwithstanding?'' all without any intervening action.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Chair notes for the record the receipt by the Senate of the President's veto message on S. 1287, which, under the previous order, shall be considered as read and spread in full upon the Journal and shall be laid aside until 9:30 a.m. on Tuesday, May 2, 2000.

PROPOSING AN AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES TO PROTECT THE RIGHTS OF CRIME VICTIMS—Motion to Proceed—Continued

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I ask unanimous consent to yield my time to the distinguished senior Senator from West Virginia.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from West Virginia.

Mr. BYRD. Mr. President, I have listened to the comments by my colleagues, those who are proponents of the proposed constitutional amendment before the Senate, and I have listened to the comments of many of my colleagues who have spoken in opposition to the proposed amendment. I compliment both sides on the debate. I think it is an enlightening debate.

I will have more to say if the motion to proceed is agreed to.

In view of the statements that have been made by several of those who are opposed to the amendment—the Senator from New York (Mr. SCHUMER), the Senator from Illinois (Mr. DURBIN), and the Senator from Connecticut (Mr. DODD), and others, they have cogently and succinctly expressed my sentiments in opposition to the amendment.

I congratulate the Senator from Vermont, Mr. LEAHY, on his statements in opposition thereto, as well as the leadership he has demonstrated not only on this proposed constitutional amendment but also in reference to other constitutional amendments before the Senate in recent days and in years past. He is a dedicated Senator in every respect. He certainly is dedicated to this Federal Constitution and very ably defends the Constitution.

I do not say that our Constitution is static. John Marshall said it was a Constitution that was meant for the ages. I will go into that more deeply later. At a later date, I will address this particular amendment.

But having been a Member of the Congress now going on 48 years, I may not be an expert on the Constitution, but I have become an expert observer of what is happening in this Congress and its predecessor Congresses, and an observer of what is happening by way of the Constitution. I consider myself to be as much an expert in that regard as anybody living because I have been around longer than most people. I have now been a Member of Congress, including both Houses, longer than any other Member of the 535 Members of Congress today.

I must say that I am very concerned about the cavalierness which I have observed with respect to the offering of constitutional amendments. There seems to be a cavalier spirit abroad which seems to say that if it is good politically, if it sounds good politically, if it looks good politically, if it will get votes, let's introduce an amendment to the Constitution. I am not saying that with respect to proponents of this amendment, but, in my own judgment, I have seen a lot of that going on.

I don't think there is, generally speaking, a clear understanding and appreciation of American constitutionalism. I don't think there is an understanding of where the roots of this Constitution go. I don't think there is an appreciation for the fact that the roots of this Constitution go 1,000 years or more back into antiquity. I do not address this proposed constitutional amendment as something that is necessary, nor do I address this, the Constitution today, as something that just goes back to the year 1787, 212 years ago.

The Constitution was written by men who had ample experience, who benefited by their experience as former Governors, as former members of their State legislatures, as former members of the colonial legislatures which preceded the State legislatures, as former Members of the Continental Congress which began in 1794, as Members of the Congress under the Articles of Confederation which became effective in 1781. Some of the members of the convention came from England, from Scotland, from Ireland. Alexander Hamilton was born in the West Indies. These men were very well acquainted with the experiences of the colonialists. They were very much aware of the weaknesses, the flaws in the Articles of Confederation. They understood the State constitutions. Most of the 13 State constitutions were written in the years 1776 and 1777. Many of the men who sat in the Constitutional Convention of 1787 had helped to create those State constitutions of 1776 and 1777 and subsequent thereto. Many of them had experience on the bench. They had experiences in dealing with Great Britain during and prior to the American Revolution. Some of them had fought in Gen. George Washington's polyglot, motley army. These men came with great experience. Franklin was 81 years

old. Hamilton was 30. The tall man with the peg leg, Gouverneur Morris, was 35. Madison was 36. They were young in years, but they had tremendous experience back of those years.

So the Constitution carries with it the lessons of the experiences of the men who wrote it. They were steeped in the classics. They were steeped in ancient history. They knew about Polybius. They knew how he wrote about mixed government. They knew what Herodotus had to say about mixed government. They knew what other great Greek and Roman authors of history had learned by experience, centuries before the 18th century. They knew about the oppression of tyrannical English monarchs. They knew the importance of the English Constitution, of the Magna Carta, of the English Bill of Rights in 1689. They knew about the English Petition of Right in 1628. All of these were parts of the English Constitution, an unwritten Constitution except for those documents, some of which I have named—the Petition of Right, the Magna Carta, the decisions of English courts, and English statutes.

So to stand here and say, in essence, that the Constitution reflects the viewpoints of the men who wrote that Constitution in 1787, or only reflects the views of our American predecessors of 1789, or those who ratified the Constitution in 1790 or in 1791, is only a partial truth. The roots of this Constitution—a copy of which I hold in my hand—go back 1,000 years, long before 1787, long before 1791 when the first 10 amendments which constitute the American Bill of Rights were ratified. That was only a milestone along the way—1787, 1791. These were mere milestones along the way to the real truths, the real values that are in this Constitution, a copy of which I hold in my hand. Those are only milestones along the way, far beyond 1787, far beyond 1776 or 1775 or 1774. Why was that revolution fought? Why did our forbears take stand there on the field of Lexington, on April 19, and shed their blood? Why was that revolution fought? It was fought on behalf of liberty. That is what this Constitution is all about—liberty, the rights of a free people, the liberties of a free people. Liberty, freedom from oppression, freedom from oppressive government, that is why they shed their blood at Lexington and at Bunker Hill and at Kings Mountain and at Valley Forge, down through the decades and the centuries. The blood of Englishmen was spilled centuries earlier in the interests of liberty, in the interests of freedom: Freedom of the press, freedom to speak, freedom to stand on their feet in Parliament and speak out against the King, freedom from the oppression of the heavy hand of government. That is what that Constitution is about.

There are those who think that the Constitution sprang from the great minds of those 39 men who signed the Constitution at the Convention, of the 55 who attended the meetings of the Convention—some believe that it sprang from their minds right on the spot. Some believe that it came, like manna from Heaven, fell into their arms. It sprang like Minerva from the brain of Jove. That is what they think.

No, I say a miracle happened at Philadelphia, but that was not the miracle. The miracle that occurred at Philadelphia was the miracle that these minds of illustrious men gathered at a given point in time, at Philadelphia, and over a period of 116 days wrote this Constitution. It could not have happened 5 years earlier because they were not ready for it. Their experiences of living under the Articles of Confederation had not yet ripened to a point where they were ready to accept the fact that there had to be a new government, a new constitution written. And it could not have happened 5 years later because the violence that they saw in France, as the guillotine claimed life after life after life, had not yet happened. Some 5 years later, they would have seen that violence of the French Revolution, and they would have recoiled in horror from it.

The writing of this Constitution happened at the right time, at the right place, and it was written by the right men. That was the miracle of Philadelphia.

Here we are today talking about amending it, this great document, the greatest document of its kind that was ever written in the history of the world. There is nothing to compare it with, by way of man-made documents. Who would attempt to amend the Ten Commandments that were handed down to Moses? Not I. Yet, we, little pygmies on this great stage, before the world, would attempt to pit our talents and our wisdom against the talents and wisdom, the experience and the viewpoints of men such as George Washington, James Madison, Alexander Hamilton, Gouverneur Morris, Benjamin Franklin, John Dickenson, James Wilson, Roger Sherman? In article V of this Constitution, they had the foresight to write the standard. If we want to find the standard for this Constitutional amendment, or any other Constitutional amendment here is the standard in the Constitution itself.

The Congress, whenever two-thirds of both Houses shall deem it necessary—

The Congress, whenever two thirds of both Houses shall deem it necessary—

shall propose Amendments. . . .

I don't say that the Constitution is static. I don't say it never should be amended. I would vote for a constitutional amendment if I deemed it ''necessary.'' Certainly, I do not see this proposed amendment as necessary, but I will have more to say about that later.

I don't say that the Constitution is perfect. I do say that there is no other comparable document in the world that has ever been created by man. And when that Constitution uses the word ''necessary,'' it means ''necessary,'' because no word in that Constitution was just put into that document as a place filler.

I do think this is a time that I might speak a little about the constitutionalism behind the American Constitution. I think it might be well for anyone who might be patient enough or interested enough, to hear what I am going to say, because I don't think enough people understand the Constitution. I am sure they don't understand the roots of the Constitution. They don't understand American constitutionalism. It is a unique constitutionalism, the American constitutionalism. I don't think most people understand it.

In response to a recent nationwide poll, 91 percent of the respondents agreed with this statement: ''The U.S. Constitution is important to me.''

Mr. President, 91 percent of the respondents agreed to that: ''The U.S. Constitution is important to me.'' Yet only 19 percent of the people polled knew that the Constitution was written in 1787; only 66 percent recognized the first 10 amendments to the Constitution as the Bill of Rights—only 66 percent. Only 58 percent answered correctly that there were three branches of the Federal Government; 17 percent were able to recall that freedom of assembly is guaranteed by the first amendment to the Constitution—17 percent, 17 percent. Yet you see them out here all the time, on the Capitol steps, assembling, petitioning the Government for a redress of what they conceive to be grievances. They know they have that right, but only 17 percent were able to recall that freedom of assembly is guaranteed by the first amendment to the Constitution.

Only 7 percent remembered that the Constitution was written at the Constitutional Convention; 85 percent believed that the Constitution stated that ''All men are created equal''—or failed to answer the question; and only 58 percent agreed that the following statement is false: ''The Constitution states that the first language of the U.S. is English.''

The American people love the Constitution. They believe the Constitution is good for them collectively and individually, but they do not understand much about it. And the same can be said with respect to constitutionalism. The same can be said with respect to the Members of Congress; that means both Houses. Not a huge number, I would wager, of the Members of the Congress of both Houses know a great deal about the Constitution. How many of them have ever read it twice?

Each of us takes an oath to support and defend the Constitution of the United States every time we are elected or reelected. We stand right up at that desk with our hand on the Bible—at least that is the image people have of us—and we swear in the presence of men and Almighty God to support and defend that Constitution. How many of us have read it twice? How many of us

really know what is in that Constitution? And yet we will suggest amendments to it.

With 91 percent of the people polled agreeing that the U.S. Constitution is important to themselves, it is a sad commentary that this national poll would reveal that so many of these same Americans are so hugely ignorant of their Constitution and of the American history that is relevant thereto.

Let us think together for a little while about this marvelous Constitution, its roots and origins and, in essence, the genesis of American constitutionalism—a subject about which volumes have been written and will continue to be written. It is with temerity that I would venture to expound upon such a grand subject, but I do so with a full awareness of my own limited knowledge and capabilities in this respect, which I freely admit, and for which I just as freely apologize. Nonetheless, let us have at it because the clock is running and time stops for no one, not even a modern day Joshua.

Was Gladstone correct in his reputed declaration that the Constitution was ''the most wonderful work ever struck off at a given time by the brain and purpose of man''? Well, hardly.

In 1787, the only written constitutions in the world existed in English-speaking America, where there were 13 State constitutions and a constitution for the Confederation of the States, which was agreed upon and ratified in 1781. That was our first National Constitution. Americans were the heirs of a constitutional tradition that was mature by the time of the Convention that met in Philadelphia. Americans had tested that tradition between 1776 and 1787 by writing eleven of the State constitutions and the Articles of Confederation. Later, with the writing of the United States Constitution, they brought to completion the tradition of constitutional design that had begun a century and a-half or two centuries earlier.

So when someone stands here and says that this Constitution just represents what those people of 1789 or 1787 or 1791 believed, what they thought, then I say we had better stop, look, and listen. The work of the Framers brought to completion the tradition of constitutional design that had begun a century and a half or two centuries earlier right here in America.

Let us move back in point of time and attempt to trace the roots of what is in this great organic document, the Constitution of the United States. Looking back, the search—we are going backward in time now—takes us first to the Articles of Confederation. A lot of people in this country do not know that the Articles of Confederation ever existed. They have forgotten about them. They never hear about them anymore. And then to the earliest State constitutions, and back of these—going back, back in point of time—were the colonial foundation documents that are essentially constitutional, such as the Pilgrim Code of Law, and then to the proto-constitutions, such as the Fundamental Orders of Connecticut and the Mayflower Compact. As one scholar, Donald S. Lutz, has noted:

> The political covenants written by English colonists in America lead us to the church covenants written by radical Protestants in the late 1500's and early 1600's, and these in turn lead us back to the Covenant tradition of the Old Testament.

It is appropriate, for our purposes here to focus for a short time on those Old Testament covenant traditions because they were familiar not only to the early settlers from Europe—your forebears and mine—but also to the learned men who framed the United States Constitution.

In the book of Genesis we are told that the Lord appeared to Abram saying: ''Get thee out of thy country, and from thy kindred, and from thy father's house, unto a land that I will show thee: and I will make of thee a great nation, and I will bless thee, and make thy name great;'' (Genesis 12:1,2)

In Chapter 17 of Genesis, verses 4–7, God told Abram: ''As for me, behold, my covenant is with thee, and thou shalt be a father of many nations. Neither shall thy name any more be called Abram, but thy name shall be Abraham; for a father of many nations have I made thee. . . . And I will make nations of thee, and kings shall come out of thee. And I will establish my covenant between me and thee and thy seed after thee in their generations for an everlasting covenant, to be a God unto thee, and to thy seed after thee.''

Again, speaking to Abraham, God said: ''This is my covenant, which ye shall keep, between me and you and thy seed after thee; Every man child among you shall be circumcised.'' (Genesis 17:10)

The Abrahamic covenant was confirmed upon subsequent occasions, one of which occurred after Abraham had prepared to offer Isaac, his son, as a burnt offering in obedience to God's command, at which time an angel of the Lord called out from heaven and commanded Abraham, ''Lay not thine hand upon the lad, . . . for now I know that thou fearest God.'' (Genesis 22:12)

The Lord then spoke to Abraham saying, ''I will bless thee, and in multiplying, I will multiply thy seed as the stars of the heaven, and as the sand which is upon the sea shore . . . because thou hast obeyed my voice.'' (Genesis 22:17,18)

God's covenant with Abraham was later confirmed in an appearance before Isaac, saying: ''Go not down into Egypt; dwell in the land which I shall tell thee of.'' Sojourn (see Gen. 26:3–5)

God subsequently confirmed and renewed this covenant with Jacob, as he slept with his head upon stones for his pillows and dreamed of a ladder set upon the earth, and the top of it reached to heaven, with angels of God ascending and descending on it. God spoke, saying: ''I am the Lord God of Abraham, . . . and the God of Isaac: the land whereon thou liest, to thee will I give it, and to thy seed; and thy seed shall be as the dust of the earth . . . and in thee and in thy seed shall all the families of the earth be blessed.'' (Genesis 28:11–14)

At Bethel, in the land of Canaan, Jacob built an altar to God, and God appeared unto Jacob, saying: ''Thy name is Jacob; thy name shall not be called any more Jacob, but Israel shall be thy name.'' And God said unto him, ''I am God almighty: be fruitful and multiply; a nation and a company of nations shall be of thee, and kings shall come out of thy loins; and the land which I gave Abraham and Isaac, to thee I will give it, and to thy seed after thee will I give the land.'' (Genesis 35:10,11)

The book of Exodus takes up where Genesis leaves off, and we find that the descendants of Jacob had become a nation of slaves in Egypt. After a sojourn that lasted 430 years, God then brought the Israelites out of Egypt that he might bring them as his own prepared people into the Promised Land. Exodus deals with the birth of a nation, and all subsequent Hebrew history looks back to Exodus as the compilation of the acts of God that constituted the Hebrews a nation.

Thus far, we have seen the successive covenants entered into between God and Abraham and between God and Isaac and between God and Jacob; we have seen the creation of a nation through what might be described as a federation—there is the first system of federalism—a federation of the 12 tribes of Israel, the 12 sons of Jacob having been recognized as the patriarchs of their respective tribes.

Joshua succeeded Moses as leader of the Israelites. Then came the prophets and the judges of Israel, and the turmoils of the divided kingdoms of Judah and Israel. Samuel anointed the first king—Saul, and the kingship of David followed. Thus we see the establishment of a monarchy.

God covenanted with David, speaking to him through Nathan the prophet, and God promised to raise up David's seed after his death, according to which a son would be born of David, whose name would be Solomon. Furthermore, Solomon would build a house for the Lord and would receive wisdom and understanding. The Ark of the Covenant of the Lord, and the holy vessels of God, would be brought into the sanctuary that was to be built to the name of the Lord.

Now I have spoken of the creation of the Hebrew nation, and not without good reason. The American constitutional tradition derives much of its form and much of its content from the Judeo-Christian tradition as interpreted by the radical Protestant sects to which belonged so many of the original European settlers in British North America.

Donald S. Lutz, in his work entitled ''The Origins of American Constitutionalism'', says: ''The tribes of Israel

shared a covenant that made them a nation. American federalism originated at least in part in the dissenting Protestants' familiarity with the Bible''.

The early Calvinist settlers who came to this country from the Old World brought with them a familiarity with the Old Testament covenants that made them especially apt in the formation of colonial documents and state constitutions.

Winton U. Solberg tells us that in 17th-century colonial thought, divine law, a fusion of the law of nature in the Old and New Testaments, usually stood as fundamental law. The Mayflower Compact—we have all heard of that—the Mayflower Compact exemplified the Doctrine of Covenant or Contract. Puritanism exalted the biblical component and drew on certain scriptural passages for a theological outlook. Called the Covenant or Federal Theology, this was a theory of contract regarding man's relations with God and the nature of church and state. Man was deemed an impotent sinner until he received God's grace, and then he became the material out of which sacred and civil communities were built.

Another factor that contributed to the knowledge of the colonists and to their experience in the formation of local governments, was the typical charter from the English Crown. These charters generally required that the colonists pledge their loyalty to the Crown, but left up to them, the colonists, the formation of local governments as long as the laws which the colonists established comported with, and were not repugnant to, the laws of England. Boards of Directors in England nominally controlled the colonies. The fact that the colonies were operating thousands of miles away from the British Isles, together with the fact that the British Government was so involved in a bloody civil war, made it possible for the American colonies to operate and evolve with much greater freedom and latitude than would otherwise have been the case. The experiences gained by the colonists in writing documents that formed the basis for local governments, and the benefits that flowed from experience in the administration of those colonial governments, contributed greatly to the reservoir of understanding of politics and constitutional principles developed by the Framers.

Although the Constitution makes no specific mention of federalism, the federal system of 1787 was not something new to the Framers. Compacts had long been used as a device to knit settlements together. For example, the Fundamental Orders of Connecticut, 1639, established a Common government for the towns of Hartford, Windsor, and Wethersfield, while each town government remained intact. In 1642, the towns of Providence, Pocasset, Portsmouth, and Warwick in Rhode Island devised a compact known as the Organization of the Government of Rhode Island, a federation which became a united colony under the 1663 Rhode Island Charter. The New England Confederation of 1643 was a compact for uniting the colonies of Massachusetts, Connecticut, Plymouth, and New Haven, each of which was comprised of several towns that maintained their respective governments intact.

Thus, the Framers were guided by a long experience with federalism or confederalism, including the Articles of Confederation—an experience that was helpful in devising the new national federal system.

Lutz says that the states, in writing new constitutions in the 1770s, ''drew heavily upon their respective colonial experience and institutions. In American constitutionalism, there was more continuity and from an earlier date than is generally credited.''

That is why I am here today speaking on this subject. Let it be heard. Let it be known that the roots of this Constitution go farther back than 1787, farther back than its ratification in 1791—farther back. They were writing based on historical experiences that went back 1,000 years, before the Magna Carta, back to the Anglo-Saxons, back another 2,000 years, back another 1,500 years, back to the federalism of the Jewish tribes of Israel and Judah. Wake up. This Constitution wasn't just born yesterday or in 1787. Let us go back to history. Let us study the history of American constitutionalism, its roots, how men suffered under oppressive governments. Then we will have a little better understanding of this Constitution. No, the Constitution is not static. History is not static. The journey of mankind over the centuries is not static. We can always learn from history.

To what extent were the Framers influenced by political theorists and republican spokesmen from Britain and the Continent? According to Solberg, republican spokesmen in England constituted an important link on the road to the realization of a republic in the United States.

I hear Senators stand on this floor and say that we live in a democracy. This is not a democracy. This is a republic. You don't have to believe ROBERT C. BYRD. Go to Madison, go to ''The Federalist Papers,'' Federalist Paper No. 10 or Federalist Paper No. 14—those of you who are listening—and you will find the definition of a democracy and the definition of a republic. You will find the difference between the two.

John Milton, whose literary accomplishments and Puritanism assured him of notice in the colonies, was significant for the views expressed in his political writings. He supported the sovereign power of the people, argued for freedom of publications, and justified the death penalty for tyrants.

English political thinkers who influenced American constitutionalism and who exerted an important influence in the colonies were Bolingbroke, Addison, Pope, Hobbes, Blackstone, and Sir Edward Coke. And there were others.

John Locke may be said to have symbolized the dominant political tradition in America down to and in the convention of 1787.

Locke equated property with ''life, liberty, and estate'' and was the crucial right on which man's development depends. Nature, Locke thought, creates rights. Society and government are only auxiliaries which arise when men consent to create them in order to preserve property in the larger sense, and a community calls government into being to secure additional protection for existing rights. As representatives of the people, the legislature is supreme but is itself controlled by the fundamental law. Locke limits government by separating the legislative and administrative functions of government to the end that power may not be monopolized. That is assured by our Constitution also. The people possess the ultimate right of resisting a government which abuses its delegated powers. Such a violation of the contract justified the community in resuming authority.

David Hume dealt with the problem of faction in a large republic, and promoted the device of fragmenting election districts. Madison, when faced with the same problem in preparing for the federal convention, supported the idea of an extended republic—drawing upon Hume's solution.

Blackstone's view was that Parliament was supreme in the British system and that the locus of sovereignty was in the lawmaking body. His absolute doctrine was summed up in the aphorism that ''Parliament can do anything except make a man a woman or a woman a man.''

His ''Commentaries on the Laws of England'' was the most complete survey of the English legal system ever composed by a single hand. The commentaries occupied a crucial role in legal education, and many of Blackstone's ideas were uppermost on American soil from 1776 to 1787, with vital significance for constitutional development both in the states and in Philadelphia. Although delegates to the convention acknowledged Blackstone as the preeminent authority on English law, they, nevertheless, succeeded in separating themselves from some of his other views.

James Harrington's ''Oceana'' presented a republican constitution for England in the guise of a utopia. He concluded that since power does follow property, especially landed property, the stability of society depends on political representation reflecting the actual ownership of property. The distinguishing feature of Harrington's commonwealth was ''an empire of laws and not of men.'' Harrington proposed an elective ballot, rotation in office, indirect election, and a two-chamber legislature.

This goes back a long way, doesn't it?

Harrington proposed legislative bicameralism as a precaution against the dangers of extreme democracy, even in a commonwealth in which property ownership was widespread. He argued that a small and conservative Senate should be able to initiate and discuss but not decide measures, whereas a large and popular house should resolve for or against these without discussion.

These were novel but significant ideas that became influential in America, in this country, before 1787. John Adams was an ardent disciple of Harrington's views.

James Harrington was the modern advocate of mixed government most influential in America. That is what ours is. The government of his ''Oceana'' consisted of a Senate which represented the aristocracy; a huge assembly elected by the common people, thus representing a democracy; and an executive, representing the monarchical element, to provide a balancing of power.

Harrington's respect for mixed government was shared by Algernon Sidney, who declared: ''There never was a good government in the world that did not consist of the three simple species of monarchy, aristocracy, and democracy.''

The mixed government theorists saw the British king, the House of Lords, and the House of Commons as an example of a successful mixed government.

The notion of mixed government goes all the way back to Herodotus, and who knows how far beyond. It was a notion that had been around for several centuries. Herodotus in his writings concerning Persia had expounded on the idea, but it had lost popularity until it was revived by the historian Polybius who lived between the years circa 205–125 B.C. It was a governmental form that pitted the organs of government representing monarchy, aristocracy, and democracy against each other to achieve balance and, thus, stability. The practice of mixed government collapsed along with the Roman Republic, but the doctrine was revived in 17th century England—now we are getting closer—from which it passed to the New World. Those who wrote the Constitution weren't just writing based on the experiences of their time.

Let us turn now to a consideration of the renowned French philosopher and writer, Montesquieu. Montesquieu had a considerable impact upon the political thinking of our constitutional Framers. They were conversant with the political theory and philosophy of Montesquieu, who was born 1689—a hundred years before our Republic was formed—and died in 1755. He died just 32 years before our constitutional forebears met in Philadelphia.

Americans of the Revolutionary period were well acquainted with the philosophical and political writings of Montesquieu in reference to the separation of powers, and John Adams was particularly strong in supporting the doctrine of separation of powers in a mixed government.

Montesquieu advocated the principle of separation of powers. He possessed a belief, which was faulty, that a huge territory did not lend itself to a large republic. He believed that government in a vast expanse of territory would require force and this would lead to tyranny.

He believed that the judicial, executive, and legislative powers should be separated. If they were kept separated, the result would be political freedom, but if these various powers were concentrated in one man, as in his native France, then the result would be tyranny.

Montesquieu visited the more important and larger political divisions of Europe and spent a considerable time in England. His extensive English connections had a strong influence on the development of his political philosophy.

We are acquainted with his ''Spirit of the Laws'' and with his ''Persian Letters,'' but perhaps we are not so familiar with the fact that he also wrote an analysis of the history of the Romans and the Roman state. This essay, titled ''Considerations on the Causes of the Greatness of the Romans and their Decline,'' was produced in 1734.

Considering the fact that Montesquieu was so deeply impressed with the ancient Romans and their system of government, and in further consideration of his influence upon the thinking of the Framers and upon the thinking of educated Americans generally during the period of the American Revolution, let us consider the Roman system as it was seen by Polybius, the Greek historian, who lived in Rome from 168 B.C., following the battle of Pydna, until after 150 B.C., at a time when the Roman Republic was at a pinnacle of majesty that excited his admiration and comment.

Years later, Adams recalled that the writings of Polybius ''Were in the contemplation of those who framed the American Constitution.''

Polybius provided the most detailed analysis of mixed government theory. He agreed that the best constitution assigned approximately equal amounts of power to the three orders of society and explained that only a mixed government could circumvent the cycle of discord which was the inevitable product of the simple forms.

Polybius saw the cycle as beginning when primitive man, suffering from violence, privation, and fear, consented to be ruled by a strong and brave leader. When the son was chosen to succeed this leader, in the expectation that the son's lineage would lead him to emulate his father, the son, having been accustomed to a special status from birth, was lacking in a sense of duty to the public and, after acquiring power, sought to distinguish himself from the rest of the people. Thus, monarchy deteriorated into tyranny. The tyranny then would be overturned by the noblest of aristocrats who were willing to risk their lives. The people naturally chose them to succeed the king as ruler, the result being ''ruled by the best,''—an aristocracy.

Soon, however, aristocracy deteriorated into oligarchy because, in time, the aristocrats' children placed their own welfare above the welfare of the people. A democracy was created when the oppressed people rebelled against the oligarchy. But in a democracy, the wealthy corrupted the people with bribes and created faction in order to raise themselves above the common level in the search for status and privilege and additional wealth. Violence then resulted and ochlocracy (mob rule) came into being.

As the chaos mounted to epic proportions, the people's sentiment grew in the direction of a dictatorship, and monarchy reappeared. Polybius believed that this cycle would repeat itself over and over again indefinitely until the eyes of the people opened to the wisdom of balancing the power of the three orders. Polybius considered the Roman Republic to be the most outstanding example of mixed government.

Polybius viewed the Roman Constitution as having three elements: the executive, the Senate, and the people; with their respective shares of power in the state regulated by a scrupulous regard to equality and equilibrium.

Let us examine this separation of powers in the Roman Republic as explained by Polybius. The consuls—representing the executive—were the supreme masters of the administration of the government when remaining in Rome. All of the other magistrates, except the tribunes, were under the consuls and took their orders from the consuls. The consuls brought matters before the Senate that required its deliberation, and they saw to the execution of the Senate's decrees. In matters requiring the authorization of the people, a consul summoned the popular meetings, presented the proposals for their decision, and carried out the decrees of the majority. The majority rules.

In matters of war, the consuls imposed such levies upon manpower as the consuls deemed appropriate, and made up the roll for soldiers and selected those who were suitable. Consuls had absolute power to inflict punishment upon all who were under their command, and had all but absolute power in the conduct of military campaigns.

As to the Senate, it had complete control over the treasury, and it regulated receipts and disbursements alike. The quaestors (or secretaries of the treasury) could not issue any public money to the various departments of the state without a decree of the Senate. The Senate also controlled the money for the repair and construction of public works and public buildings throughout Italy, and this money could not be obtained by the censors, who oversaw the contracts for public works and public buildings, except by the grant of the Senate.

The Senate also had jurisdiction over all crimes in Italy requiring a public investigation, such as treason, conspiracy, poisoning, or willful murder, as well as controversies between and among allied states. Receptions for ambassadors, and matters affecting foreign states, were the business of the Senate.

What part of the Constitution was left to the people? The people participated in the ratification of treaties and alliances, and decided questions of war and peace. The people passed and repealed laws—subject to the Senate's veto—and bestowed public offices on the deserving, which, according to Polybius, ''are the most honorable rewards for virtue.''

Polybius, having described the separation of powers under the Roman Constitution, how did the three parts of state check and balance each other? Polybius explained the checks and balances of the Roman Constitution, as he had observed them first hand. Remember, he was living in Rome at the time.

What were the checks upon the consul, the executive? The consul—whose power over the administration of the government when in the city, and over the military when in the field, appeared absolute—still had need of the support of the Senate and the people. The consul needed supplies for his legions, but without a decree of the Senate, his soldiers could be supplied with neither corn nor clothes nor pay. Moreover, all of his plans would be futile if the Senate shrank from danger, or if the Senate opposed his plans or sought to hamper them. Therefore, whether the consul could bring any undertaking to a successful conclusion depended upon the Senate, which had the absolute power, at the end of the consul's one-year term, to replace him with another consul or to extend his command or his tenure.

The consuls were also obliged to court the favor of the people, so here is the check of the people against the consuls, for it was the people who would ratify, or refuse to ratify, the terms of peace. But most of all, the consuls, when laying down their office at the conclusion of their one-year term, would have to give an accounting of their administration, both to the Senate and to the people. It was necessary, therefore, that the consuls maintain the good will of both the Senate and the people.

What were the checks against the Senate? The Senate was obliged to take the multitude into account and respect the wishes of the people, for in matters directly affecting the Senators—for instance, in the case of a law diminishing the Senate's traditional authority, or depriving Senators of certain dignities, or even actually reducing the property of Senators—in such cases, the people had the power to pass or reject the laws of the Assembly.

In addition, according to Polybius, if the tribunes imposed their veto, the Senate would not only be unable to pass a decree, but could not even hold a meeting. And because the tribunes must always have a regard for the people's wishes, the Senate could not neglect the feelings of the multitude.

But as a counter balance, what check was there against the people? We have seen certain checks against the consul; we have described some of the checks against the Senate. What about the people? According to Polybius, the people were far from being independent of the Senate, and were bound to take its wishes into account, both collectively and individually.

For example, contracts were given out in all parts of Italy by the censors for the repair and construction of public works and public buildings. Then there was the matter of the collection of revenues from rivers and harbors and mines and land—everything, in a word, that came under the control of the Roman government. In all of these things, the people were engaged, either as contractors or as pledging their property as security for the contractors, or in selling supplies or making loans to the contractors, or as engaging in the work and in the employ of the contractors.

Over all of these transactions, says Polybius, the Senate ''has complete control.'' For example, it could extend the time on a contract and thus assist the contractors; or, in the case of unforeseen accident, it could relieve the contractors of a portion of their obligation, or it could even release them altogether if they were absolutely unable to fulfill the contract. Thus, there were many ways in which the Senate could inflict great hardships upon the contractors, or, on the other hand, grant great indulgences to the contractors. But in every case, the appeal was to the Senate.

Moreover, the judges were selected from the Senate, at the time of Polybius, for the majority of trials in which the charges were heavy. Consequently, the people were cautious about resisting or actively opposing the will of the Senate, because they were uncertain as to when they might need the Senate's aid. For a similar reason, the people did not rashly resist the will of the consuls because one and all might, in one way or another, become subject to the absolute power of the consuls at some point in time.

Polybius had spoken of a regular cycle of constitutional revolution, and the natural order in which constitutions change, are transformed, and then return again to their original stage. Plato on the same line, had arranged six classifications in pairs: kingship would degenerate into tyranny; aristocracy would degenerate into oligarchy; and democracy would degenerate into violence and mob rule—after which, the cycle would begin all over again. Aristotle had had a similar classification.

According to Polybius, Lycurgus—the Spartan lawgiver of, circa, the 9th century B.C.—was fully aware of these changes, and accordingly combined together all of the excellences and distinctive features of the best constitutions, in order that no part should become unduly predominant and be perverted into its kindred vice; and that, each power being checked by the others, no one part should turn the scale or decisively overbalance the others; but that, by being accurately adjusted and in exact equilibrium, ''the whole might remain long steady like a ship sailing close to the wind.''

Polybius summed it up in this way:

> When any one of the three classes becomes puffed up, and manifests an inclination to be contentious and unduly encroaching, the mutual interdependency of all the three, and the possibility of the pretensions of any one being checked and thwarted by the others, must plainly check this tendency. And so the proper equilibrium is maintained by the impulsiveness of the one part being checked by its fear of the other.

Polybius' account may not have been an exact representation of the true state of the Roman system, but he was on the scene, and he was writing to tell us what he saw with his own eyes, not through the eyes of someone else. What better witness could we have?

Mr. President, before the Convention was assembled, Madison studied the histories of all these ancient people—the different kinds of governments—aristocracy, oligarchy, monarchy, democracy, and republic. He prepared himself for this Convention. And there were others in that Convention who were very well prepared also—James Wilson, Dr. William Samuel Johnson, and others.

The theory of a mixed constitution had had its great measure of success in the Roman Republic. It is not surprising then, that the Founding Fathers of the United States should have been familiar with the works of Polybius, or that Montesquieu should have been influenced by the checks and balances and separation of powers in the Roman constitutional system, a clear and central element of which was the control over the purse, vested solely in the Senate in the heyday of the Republic.

Were the Framers influenced by the classics?

Every schoolchild and student in the universities learned how to read and write Greek and Latin. Those were required subjects.

The founders were steeped in the classics, and both the Federalists and the Anti-federalists resorted to ancient history and classical writings in their disquisitions. Not only were classical models invoked; the founders also had their classical ''antimodels''—those individuals and government forms of antiquity whose vices and faults they desired to avoid.

Classical philosophers and the theory of natural law were much discussed during the period prior to and immediately following the American Revolution. It was a time of great political ferment, and thousands of circulars,

pamphlets, and newspaper columns displayed the erudition of Americans who delighted in classical allusions.

Our forbears were erudite. They circulated their pamphlets and their newspaper columns. They talked about these things. Who today studies the classics? Who today studies the different models and forms of government? Who today writes about them?

The 18th-century educational system provided a rich classical conditioning for the founders and immersed them with an indispensable training. They were familiar with Ovid, Homer, Horace, and Virgil, and they had experienced solid encounters with Tacitus, Thucydides, Livius, Plutarch, Suetonius, Eutropius, Xenophon, Florus, and Cornelius Nepos, as well as Caesar's Gallic Wars. They were undoubtedly influenced by a thorough knowledge of the vices of Roman emperors, the logic of orations by Cicero and Demosthenes, and the wisdom and virtue of the scriptures.

They freely used classical symbols, pseudonyms, and allusions to communicate through pamphlets and the press. To persuade their readers they frequently wrapped themselves and their policies in such venerable classical pseudonyms as ''Aristides,'' ''Tully'', ''Cicero'', ''Horatius'', and ''Camillus.'' The Federalist essays, 85 of them in number were signed by ''Publius.''

Some of the Anti-federalists dubbed themselves ''Cato,'' while others called themselves ''Cincinnatus'' or ''A Plebeian.'' The appropriation of classical pseudonyms was sometimes used in private discourse for secret correspondence. George Washington's favorite play was Joseph Addison's ''Cato'' in which Cato committed suicide rather than submit to Caesar's occupation of Utica.

In the words of Carl J. Richard, in his book ''The Founders and the Classics''

> It is my contention that the classics exerted a formative influence upon the founders, both directly and through the mediation of Whig and American perspectives. The classics supplied mixed government theory, the principal basis for the U.S. Constitution. The classics contributed a great deal to the founders' conception of human nature, their understanding of the nature and purpose of virtue, and their appreciation of society's essential role in its production. The classics offered the founders companionship and solace, emotional resources necessary for coping with the deaths and disasters so common in their era. The classics provided the founders with a sense of identity and purpose, assuring them that their exertions were part of a grand universal scheme. The struggles of the Revolutionary and Constitutional periods gave the founders a sense of kinship with the ancients, a thrill of excitement at the opportunity to match their classical heroes' struggles against tyranny and their sage construction of durable republics. In short, the classics supplied a large portion of the founders' intellectual tools.

Now, what about the Declaration of Independence?

It was on June 7, 1776, that Richard Henry Lee introduced the ''Resolve'' clause, which was as follows:

> Resolved, that these United States Colonies are and of right ought to be free and independent states, that they are absolved from all allegiance to the British Crown, and that all political connection between them and the state of Great Britain is, and ought to be, totally dissolved.
>
> That it is expedient forthwith to take the most effectual measures for forming foreign alliances.
>
> That a plan of confederation be prepared and transmitted to the respective colonies for their consideration and approbation.

Following the introduction of Lee's resolution, postponement of the question of independence was delayed until July 1. Nevertheless, on June 11, Congress appointed a committee made up of Jefferson, John Adams, Franklin, Roger Sherman, R.R. Livingston, to prepare a declaration. The committee reported on June 28, and, at last, on July 2, Congress decided for independence without a dissenting vote. The delegates considered the text of the declaration for two additional days, and adopted changes on July 4 and ordered the document printed. News that New York had approved on July 9 (the New York Delegates, having been prevented by instructions from assenting, had theretofore refrained from balloting) reached Philadelphia on July 15. Four days later, Congress ordered the statement engrossed. On August 2, signatures were affixed, although all ''signers'' were not then present. Inasmuch as the Declaration was an act of treason—for which any one of those signers or all collectively could have been hanged—the names subscribed were initially kept secret by Congress. The text itself was widely publicized.

Those forebearers of ours who had the courage and the fortitude and the backbone to write the Declaration of Independence, committed an act of treason for which their properties could have been confiscated, their rights could have been forfeited, and their lives could have been taken from them. That is what we are talking about in this Constitution. Men who not only understood life in their times, but also understood the cost of liberty, so they pledged their lives, their fortunes, their sacred honor.

Those were not empty words. Would we have done so?

Much of the Declaration of Independence was derived directly from the early state constitutions. The things have roots. They didn't come up like the prophet's gourd overnight. The Declaration contained twenty-eight charges against the English king justifying the break with Britain. At least 24 of the charges had also appeared in state constitutions. New Hampshire, South Carolina, and Virginia, in that order, adopted the first constitutions of independent states, and these three state constitutions contained 24 of the 28 charges set forth in the Declaration. Lists of grievances against George III had appeared in many of the newspapers, and as far back as May 31, 1775, the Mecklenburg (North Carolina) Resolves contained the following:

> Resolved: that we do hereby declare ourselves a free and independent people; are and of right ought to be a sovereign and self-governing association, under the control of no power, other than that of our God and the general government of the Congress: to the maintenance of which independence we solemnly pledge to each other our mutual cooperation, our lives, our fortunes, and our most sacred honor.

Note that the last sentence of the Declaration of Independence says, ''And for the support of this Declaration, with a firm Reliance on the Protection of divine Providence, [we are not supposed to teach those things in our schools today] we mutually pledge to each other our Lives, our Fortunes, and our sacred Honor.''

Therefore, many of the phrases that were used by Jefferson had already appeared in various forms in the public print. Jefferson also borrowed from the phraseology of Virginia's Declaration of Rights written by George Mason, and adopted by the Virginia Constitutional Convention in June 1776. In the opening Section of that document, the following words appear:

> That all men are by nature equally free and independent and have certain inherent rights, of which, when they enter into a state of society, they cannot, by any compact, deprive or divest their posterity; namely, the enjoyment of life and liberty, with the means of acquiring and possessing property, and pursuing and obtaining happiness and safety.

Mason also stated in the Virginia Declaration of Rights, ''That all power is vested in, and consequently derived from the people,'' and that, ''when any government shall be found inadequate or contrary to these purposes, a majority of the community has and indubitable, inalienable, and indefeasible right to reform, alter, or abolish it in such manner as shall be judged most conducive to the public weal.''

Jefferson in the Declaration of Independence, stated that ''All men are created equal'' and that they were ''endowed by their creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness—that to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed, that whenever any form of government becomes destructive of these ends, it is the right of the people to alter or to abolish it, and to institute new government, laying its foundation on such principles, and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness.''

The last paragraph of the Declaration of Independence states that the representatives of the United States of America, in general Congress, assembled, ''Appealing to the supreme judge of the world for the rectitude of our intention, do, in the name, and by authority of the good people of these colonies, solemnly publish and declare, that these United Colonies are, and of right ought to be, free and independent

states; . . .'' Lutz, whose name I mentioned a few times already, makes the following comment:

Any document calling on God as a witness would technically be a covenant. American constitutionalism had its roots in the covenant form that was secularized into the compact. One could argue that with God as a witness, the Declaration of Independence is in fact a covenant. The wording is peculiar, however, and the form of an oath is present, but the words stop short of what is normally expected. But the juxtaposition of a near oath and the words about popular sovereignty is an intricate dance around the covenant-compact form. The Declaration of Independence may be a covenant; it is definitely part of a compact.

As to the words, ''All men are created equal,'' American political literature was full of statements that the American people considered themselves and the British people equal. Lutz states, with reference to this paragraph: '''Nature's God' activates the religious grounding; 'laws of nature' activate a natural rights theory such as Locke's. The Declaration thus simultaneously appeals to reason and to revelation as the basis for the American right to separate from Britain, create a new and independent people, and be considered equal to any other nation on earth.''

Now, as to the State Constitutions—I am talking about the roots, the roots of this Constitution. This Federal Constitution which we are talking about amending—what about the State Constitutions? Does the Federal Constitution have any roots in the State Constitutions?

Throughout the spring of 1776 some of the colonies remained relatively immune to the contagion which prompted others to move toward independence. This prevented the Continental Congress from breaking with Britain. To spread the virus, John Adams and Richard Henry Lee induced the Committee of the Whole to report a resolution which Congress unanimously adopted on May 10. The resolving clause of that resolution recommended to the respective assemblies and conventions of the United Colonies, that, ''where no government sufficient to the exigencies of their affairs had been hitherto established, to adopt such government as shall, in the opinion of the representatives of the people, best conduce to the happiness and safety of their constituents in particular, and America in general.''

State constitutions were of great significance in the development of our Federal Constitution and our Federal system of government. When the Framers met in Philadelphia, they were familiar with the written constitutions of 13 states, and, as a matter of fact, many of those Framers had served in the State legislatures and conventions that debated and approved the State constitutions. Not only were they, the Framers, conversant with the organic laws of the 13 states, but they were also knowledgeable of the colonial experience under colonial government. As was ably stated by William C. Morey, in the September 1893 edition of ''Annals of the American Academy'' of Political and Social Science:

The state constitutions were linked in the chain of colonial organic laws and they also formed the basis of the federal constitution. The change had its beginning in the early charters of the English trading companies, which were transformed into the organic laws of the colonies, which, in their turn, were translated into the constitutions of the original states, which contributed to the constitution of the federal union.

The Pennsylvania Constitution of 1701 appears to have been the last written form of government that appeared in colonial times. There had been two previous Pennsylvania Constitutions—1683 and 1696—and these, together with the Massachusetts Charter of 1691, constitute the most advanced colonial forms and provide the nearest approach in the colonial period towards the final goal of the national constitution.

The original 13 colonies became 13 States during the decade preceding the 1787 Convention, and all but Connecticut and Rhode Island wrote new constitutions in forming their state governments. These new state constitutions would provide important innovations in American constitutionalism, and the Framers at Philadelphia would benefit hugely, not only from the substantive material and form contained in the Constitutions but also from the experience gained under the Administration of the new governments.

Let us examine some of these new constitutions, noting particularly those features in the State constitutions which would later appear, even if varying degree, in the Federal Constitution. Thus we shall see the guidance which these early State constitutions provided to the men at Philadelphia in 1787.

Let us first examine article I of the Constitution and observe the amazing conformity therein with the equivalent provisions of the various State constitutions written a decade earlier in 1776 and 1777. Take section 1, for example, in which the U.S. Constitution vests all legislative powers in a Congress, consisting of a Senate and House. At least nine of the State constitutions have similar provisions—so you see, our constitutional Framers just did not pick this out of thin air—perhaps varying somewhat in form, which vest the lawmaking powers in a legislature consisting of two separate bodies, the lower of which is generally referred to as an assembly or House of Representatives or House of Delegates—as in the case of West Virginia, which was not in existence at that time, of course—or, as in the case of North Carolina, a House of Commons. The upper body is generally referred to as a Senate, but it varies, likewise, being sometimes referred to as a Council.

Section 2 provides that the U.S. House of Representatives shall choose their speaker and other officers and shall have the sole power of impeachment, and at least a half-dozen states provided that the legislative bodies should choose their speaker and other officers.

Section 3 provides for a rotation of Senators, two from each state, so that two-thirds of the Senate is always in being. Many of the state senators were to represent districts consisting of several counties or parishes or other political units, and several of the States, including Delaware and New York, provided for a rotation of the members of the upper body so that a supermajority of the Senate were always holdovers. The Great Compromise—which was worked out at the 1787 Convention and agreed to on July 16, 1787, providing that the Senate would represent the States, while the House of Representatives' representation would be based on population—may well have benefited from the examples set by Delaware and New York.

At least eight of the State constitutions provided for impeachment by the lower house. Massachusetts and Delaware provided for the trial of impeachments by the upper body, as does the U.S. Constitution, and Massachusetts required that senators be on oath or affirmation. The New York constitution required a vote of two-thirds of the members present for a conviction in trials of impeachment. Here again, the Framers of the U.S. Constitution had examples before them which would guide them.

Conviction, in cases involving impeachment, would, in the instance of New York, not ''extend farther than to removal from office, and disqualification to hold or enjoy any place of honor, trust, or profit under the state, but the party so convicted shall be, nevertheless, liable and subject to indictment, trial, judgment, and punishment, according to the laws of the land''—almost the identical language that appeared a decade later in the U.S. Constitution relative to penalties following conviction in impeachment cases, and almost identical to the language in the unwritten English Constitution which appeared 200 years before.

At least nine of the State constitutions provided that each House should be the judge of the elections, returns, and qualifications of its own members, with a majority to constitute a quorum and with provisions for a minority (of senators) to compel the attendance of absent senators—the equivalent of language which appears in article I, section 5, of the U.S. Constitution.

The provisions of article I, section 5, of the U.S. Constitution allowing each House to determine the rules of its own proceedings could well have been copied from the state constitutions of Maryland, Virginia, Delaware, Georgia, and Massachusetts, and the provision for expulsion of members in the U.S. Constitution could also have been taken from the state constitutions of Delaware, Maryland, and Pennsylvania.

The constitutional requirement that revenue bills originate in the House of Representatives was prefigured by the State constitutions of New Hampshire, New Jersey, Virginia, Delaware, Maryland, Massachusetts, and South Carolina. Massachusetts permitted the senate to propose or concur with amendments to revenue bills as was later provided in the U.S. Constitution.

The presentment clause of article I, section 7, that is what the Congress tripped over when it passed the nefarious Line-Item Veto Act of 1995, the presentment clause.

The presentment clause of article I, section 7, of the U.S. Constitution has been very much in the news lately in reference to the line item veto. The State constitutions of Massachusetts and New York are very revealing and instructive in this regard. The Massachusetts Constitution stated that no bill of the senate or house of representatives should become a law until it ''shall have been laid before the Governor'' and if he approved thereof, ''he shall signify his approbation by signing the same. But if he has any objection to the passing of such bill, he shall return the same, together with his objections thereto, in writing, to the Senate or House of Representatives, in whichever the same shall have originated; who shall enter the objections sent down by the Governor, at large, on their records, and proceed to reconsider the said bill.''

That is what we are about to do very soon with respect to the most recent veto of the President. So one can see these provisions that appear in our own Constitution had their roots in various other documents and experiences that long preceded the writing of the U.S. Constitution.

But, if after such reconsideration, two-thirds of the said senate or house of representatives, shall, notwithstanding the said objections, agree to pass the same, it shall, together with the objections, be sent to the other branch of the legislature, where it shall also be reconsidered, and if approved by two-thirds of the members present, shall have the force of the law. But in all such cases, the votes of both Houses shall be determined by yeas and nays.

The language in the Massachusetts State Constitution is strikingly similar to that which appeared a decade later in the U.S. Constitution concerning Presidential vetoes of bills and the requirement that such bills be presented to the President for his signature or for his approval or rejection.

The U.S. Constitution's language concerning vetoes and the presentment of legislation to the Chief Executive for his approval or disapproval is again exceptionally reminiscent of the language in the New York State Constitution, which provides for a council of revision of all bills. Note, however, the New York State Constitution language:

All bills which have passed the Senate and assembly shall before they become laws, be presented to the said council for their consideration, and if it should appear improper that the said bill should become a law of this state, that they return the same, together with their objections thereto in writing, to the Senate or House of Assembly (in which so ever the same shall have originated) who shall enter the objection sent down by the council at large in their minutes, and proceed to reconsider the said bill. But if, after such reconsideration, two-thirds of the said Senate or House of Assembly shall, notwithstanding the said objections, agree to pass the same, it shall, together with the objections, be sent to the other branch of the legislature, where it shall also be reconsidered, and, if approved by two-thirds of the members present, shall be a law.

And in order to prevent any unnecessary delays, be it further ordained, that if any bill shall not be returned by the council within ten days after it shall have been presented, the same shall be a law, unless the legislature shall, by their adjournment, render a return of the said bill within ten days impracticable; in which case, the bill shall be returned on the first day of the meeting of the legislature after the expiration of the said ten days.

The similarity of the language in the U.S. Constitution's veto and presentment clause to the equally complex language of the Massachusetts and New York State Constitutions is enough to make one sit up and take notice. Except for some slight variations, the U.S. Constitution appears to copy, almost verbatim, the text set forth in the two State constitutions. It cannot be said with a straight face that this is a matter of mere coincidence. It seems to me that one can easily see the fine hand and the eloquent voice of Alexander Hamilton, in the case of New York, and Elbridge Gerry, Nathaniel Gorham, and Rufus King, in the case of Massachusetts, in the behind-the-scenes discussions that probably occurred in the Convention with respect to these and other clauses in the Constitution which appeared to have been copied, almost word for word, from various State constitutions.

The President's State of the Union Message, which grows out of article II, section 3, of the U.S. Constitution, was likely foreordained by the New York Constitution which stated that it was the duty of the Governor ''to inform the legislature, at every session, of the condition of the state, so far as may respect his department; to recommend such matters to their consideration as shall appear to him to concern its good government, welfare, and prosperity; . . .''

Nine of the States provided that the Governor should have the title of commander in chief, thus prefiguring section 2 of article II of the U.S. Constitution which states that the President ''shall be commander in chief'', and at least five of the State constitutions gave the chief executive of the State the power to grant reprieves and pardons, except in cases of impeachment, just as we find in article II, section 2, of the U.S. Constitution with respect to the President's powers.

Other similarities between some of the State constitutions and the U.S. Constitution—in varying degrees, of course—have to do with the requirement to assemble at least once in every year; legislators' privilege from arrest; the requirement that a census be taken for the purpose of the apportionment of representatives; the laying and collection of taxes by the legislative branch; the taking of an oath before entering upon the office of Governor and other high State offices, as in the case of the President and other officials at the national level; provisions in the State and National constitutions for amendments thereto; and prohibitions against bills of attainder and ex post facto laws.

Many of the States, obviously remembering British history—you see, the roots go back, they go back and farther back—expressly prohibited the governor from proroguing, adjourning, or dissolving the legislature, but did provide that the Governor could, under extraordinary circumstances, convene the legislature in advance of the time to which it had previously adjourned.

That the States were very wary of strong and overbearing executives could be seen in the fact that in at least seven of them, the Governor was limited to a 1-year term—that is what they though of their chief executives—2 years, in the case of South Carolina; and 3 years in Delaware and New York. Prohibitions against eligibility for reelection were also prevalent in several of the State constitutions.

In at least eight of the States, the constitutions provided for the selection of the Chief Executive by the legislative branch.

In at least three States—Delaware, New Jersey, and New York—the common law of England was to remain in force. And some of the States, such as South Carolina, appeared to have copied in their constitutions, or their Bills of Rights which were annexed thereto that language from the Magna Carta which, in the language of the South Carolina constitution, states:

That no freeman of this state be taken or imprisoned, or disseized of his freehold, liberties, or privileges, or outlawed, exiled or in any manner destroyed or deprived of his life, liberty, or property, but by the judgment of his peers or by the law of the land.

In all of the State constitutions, the Governor was commander-in-chief, and the Federal constitution also makes use of the term, as I say, in relation to the President. In all of the States except Connecticut, Rhode Island, and Georgia, and in South Carolina, the State constitutions before 1787 had granted the pardoning power to the Governor, and, in the Federal Constitution, the President's pardoning power was drawn from this example of the states.

Almost every State prescribed in its constitution a form of oath for its officers, and the oath required of the President of the United States appears in the last paragraph of section 1, article II, of the U.S. Constitution.

The framers provided for the choice of President to be indirect. In the Constitution of Maryland (1776) we find an almost exact counterpart of the electoral college by whom the President is

chosen, in which the Senators from Maryland were to be selected by a body of electors, chosen every 5 years by the inhabitants of the State for this particular purpose and occasion.

This method of choosing the President may have been suggested from the manner of choosing Senators under the Constitution of Maryland.

An examination of these early State constitutions clearly indicates a vast wealth of knowledge concerning constitutional principles and a gradual evolution leading up to the convention based on the experience gained from the administration of governments under the new State constitutions. I see the constitutions of the States as tributaries—tributaries—to a mighty stream of American constitutionalism flowing to the mighty ocean of events that culminated in the grand handiwork of the framers at the 1787 Convention.

Between the completion of State constitutions and the Philadelphia Convention that produced the United States Constitution stood the Articles of Confederation which went into effect on March 1, 1781, from the substance and experience of which Madison and Hamilton and Franklin and others at the Convention gained so much guidance.

Let us now turn our attention to the Articles of Confederation.

Mr. President, I see others on the floor. They may wish to speak. I will be happy to yield the floor at this point if I can regain it later and continue my statement.

Mr. LEAHY. Mr. President, I say to my friend from West Virginia, I have already been on this floor speaking for a couple days. I took a moment to go back to the office. But I was watching the Senator on the monitor, and I just wanted to come over and listen to him in person. I have no intention of wanting to ask him to yield the floor. I appreciate the courtesy he has offered.

Mr. BYRD. I thank the distinguished Senator.

I see the Senator from California. Also, if she wishes to have the floor, I will be happy to yield it for a while.

Mrs. FEINSTEIN. I appreciate the courtesy of the distinguished Senator from West Virginia.

I say to the Senator, please, continue on and conclude. I am just fine. I enjoy listening.

Mr. BYRD. I thank the Senator.

Mr. President, what impact did the Articles of Confederation have upon the Constitution of the United States?

On June 7, 1776, Richard Henry Lee of Virginia introduced a resolution in the Continental Congress resolving:

> That these United Colonies are, and of right ought to be, free and independent states, that they are absolved from all allegiance to the British Crown, and that all political connection between them and the state of Great Britain is, and ought to be, totally dissolved.
>
> That is expedient forthwith to take the most effectual measures for forming foreign alliances.
>
> That a plan of confederation be prepared and transmitted to the respective colonies for their consideration and approbation.

In accordance with this resolution, Congress appointed a committee of 12 on June 12—which happens to be my lovely wife's birthday, June 12, although she does not go that far back—1776, to prepare a form of confederation. A month later, on July 12, a draft plan was reported by the committee, written by John Dickinson of Delaware. The document, although reported to Congress on August 20, was delayed in its final consideration, and after having undergone modifications, was finally approved by the last holdout State of Maryland in February 1781, and the Congress, then, first met under the Articles of Confederation on March 1, 1781.

It had been a long time aborning.

New Jersey, Delaware, and Maryland had demanded that the States that had large claims to western lands renounce them in favor of the Confederation. Maryland was the last State to ratify the Articles, but finally went along when she became satisfied that the western claims would become the expected treasure of the entire Nation.

The Articles of Confederation were the direct predecessor of the Constitution of the United States, and the Articles contained within themselves the fatal flaws which doomed the success of the confederation. It was a ''league of friendship'' only, of which the Congress was the unique organ and in which ''each state shall have one vote.'' The votes of nine States were required before important action could be taken by Congress, and the consent of the legislature of each State was necessary to any amendment of the fundamental law.

Congress was given no commercial control and, most unfortunately, no power to raise money, but could only make requisitions on the States and then hope and pray that the States would respond affirmatively and adequately. They seldom if ever did. Control over foreign affairs was vested in Congress, but it was without means of making the States obey treaty requirements. The Congress had responsibility but without power to carry out its responsibility. It dealt with the people, not individually, but over their heads through the States.

Several efforts were made to get the States to amend the articles, by adding the right to levy import duties, but these efforts failed because it was impossible to get the unanimous consent of the legislatures of the 13 States to any amendment of the fundamental law.

It became increasingly difficult to secure a quorum of attendance in Congress, and even when a quorum of Members attended, important measures were blocked by the requirement for the votes of nine States. A State frequently lost its single vote—that is all it had—because of differences among its delegates. It was a time of experimentation, of learning a hard lesson that would be remembered. But the experience gained from learning these hard lessons helped to prepare the way for a better national government. It should also be remembered that at least one substantial act of legislation—the ordinance for the government of the Northwest Territory, was created by the government under the Articles of Confederation.

Under the Articles of Confederation, no State could be represented in Congress by less than two, nor by more than seven, members; and no person could serve as a delegate for more than three years in any term of six years. There were limited terms. Each State had only one vote. All charges of war and other expenses incurred for the common defense or general welfare, if allowed by the United States in Congress assembled, were to be defrayed out of a common treasury, which would be supplied by the several States in proportion to the value of all lands within each State, and the taxes for paying a State's proportion were to be laid and levied by the authority of the legislatures of the several States within the time agreed upon by the Congress.

Under a very complex arrangement—I say to the former Attorney General of the State of Alabama, who presently presides over this august body—the Congress under the Confederation was denominated as the last resort on appeal in all disputes and differences arising between two or more States ''concerning boundary jurisdiction or any other cause whatever.''

The business of Congress was to be carried on during a recess by ''a committee of the states,'' to consist of one delegate from each State.

When it came to the armed forces, requisitions were to be made from each State for its quota, in proportion to the number of white inhabitants in such States, which requisitioned would be binding. Each State would appoint the regimental officers, raise them in and clothe and arm and equip them at the expense of the United States.

However, if the Confederation Congress should determine, based on circumstances, that any State should raise a smaller number than its quota and that any other State should raise a greater number of men than its quota called for, the extra number was to be raised, clothed, and equipped as the quota allowed, unless the legislature of that State should judge that such extra number could not be safely spared. The State would be permitted to raise ''as many of such extra number'' as the State judged could be safely spared.

What a flawed approach! It is little wonder that George Washington, as Commander in Chief of the Revolutionary forces, was constantly frustrated in his efforts to build an effective fighting force. It was almost a miracle that the fledgling Nation managed to carry on and win the war under such conditions, but we can only guess

that Providence was on our side. We know for sure that the situation in England was such that that country's preoccupation with its own internal problems rendered impossible the full concentration of its resources and strength to be brought to bear against us. We were lucky in that regard.

Under the Articles, the ''Union shall be perpetual'' nor could any alteration be made in the Articles—there could be no amendment to that Constitution—unless such alteration was agreed upon in Congress assembled and afterwards confirmed by the legislature of every state.

The Articles of Confederation contained the phrase ''The United States of America,'' for the first time in American documentary history. The Articles were America's first national constitution. Congress was elected by the State legislatures. There was only one body of Congress, not two, back then, as we see today. And Congress was the executive, the legislative branch, and the judiciary in many respects. There was no man living downtown at the White House who was President.

Now let us examine the parallels between the Articles of Confederation and the U.S. Constitution.

I am here showing where the roots of the Constitution go. It is like tracing the roots of a tooth, if one is having a root canal, let us find where those roots go.

Article II of the Articles of Confederation provided that each State would retain its sovereignty and every power and right ''which is not by this confederation expressly delegated to the United States, . . .'' Where do we find that in the Constitution? The tenth amendment to the U.S. Constitution provided that the powers not delegated to the United States by the Constitution nor prohibited by it to the States ''are reserved to the states respectively, or to the people.''

Article IV of the Articles of Confederation provided that the people of the different States would ''be entitled to all privileges and immunities of free citizens in the several states'', that ''full faith and credit'' should be given in each of the States to the records, acts, and judicial proceedings of the courts and magistrates of every other state; and that any person guilty of a felony in any state who fled from justice and was found in any other state, would ''upon demand of the Governor or executive power of the state from which he fled,'' be delivered up ''to the state having jurisdiction of his offense.''

The ''privileges and immunities'' clause of the Articles of Confederation, found in article IV thereof, appears in the U.S. Constitution in article IV, section 2.

The ''full faith and credit'' clause of the Articles of Confederation is to be found in the U.S. Constitution, article IV, section 1.

The delivering up of persons charged with felonies to another state on demand of the executive authority thereof, found in article IV of the Articles is also found in article IV, section 2, paragraph 2, of the U.S. Constitution.

The PRESIDING OFFICER (Mr. SESSIONS). The Chair notes that the Senator's time has expired.

Mr. WELLSTONE. Mr. President, I ask unanimous consent to yield 40 minutes of my 60 minutes to the Senator from West Virginia.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Minnesota for his characteristic courtesy.

Article 5 of the Articles provided for the meeting of Congress on the first Monday in November in every year. Under the U.S. Constitution, article I, section 4, paragraph 2, Congress ''shall assemble at least once in every year, and such meeting was originally to have been on the first Monday in December, but this was changed to provide that Congress could by law appoint a different day from that of Monday in December.

Under article V of the Articles of Confederation, freedom of speech and debate in Congress could not be impeached or questioned in any court or place out of Congress. Under the U.S. Constitution, article I, section 6, members of Congress, for any speech or debate in either House, ''shall not be questioned in any other place.''

Article V of the Articles protects members of Congress from arrests during the time of their going to and from, and attendance in Congress, except for treason felony, or breach of the peace.

Members of Congress are likewise protected under article I, section 6, paragraph 1, of the U.S. Constitution.

Article VI of the Articles precludes any person holding office of profit or trust under the United States from accepting any present, emolument, office or title of any kind whatever from any king, prince or foreign state. Nor could Congress grant any title of nobility.

In almost identical language, the U.S. Constitution, in article I, section 9, paragraph 7, prohibits members of Congress from accepting any present, emolument, office, or title, from any king, prince or foreign state.

Under the Articles of Confederation no vessels of war or any body of forces could be kept up in time of peace without the consent of Congress. The same prohibition against the states was included in the U.S. Constitution in article 1, section 10, paragraph 2.

Provisions concerning state militias are contained in article VI of the Articles, and in article I, section 8, of the U.S. Constitution.

Article IX of the Articles vested the power of declaring war, establishing rules for captures on land or water, and granting letters of marque and reprisal. The equivalent provisions are to be found in article I, section 8, of the U.S. Constitution.

So, you see, these provisions are not something new that just came from the minds, from the heads of our constitutional forebears and the Constitutional Convention in 1787. They were already written down in other places. Thank God for that and for their guidance, as it were.

Both the Articles of Confederation and the U.S. Constitution provide for the trail of piracies and felonies committed on the high seas, in article IX of the Articles and in article I, Section 8 of the Constitution.

Article IX of the Articles of Confederation gave Congress the sole and exclusive right and power of regulating the alloy and value of coin, fixing the standard of weights and measures throughout the United States, and regulating the trade and managing all affairs with the Indians. Congress under the Constitution was given the same powers in article I, section 8.

The power to establish and regulate post offices, and the power to make rules for the government and regulation of the land and naval forces was given to the Congress by the Articles of Confederation in article IX. The same powers to establish post offices and to make rules for the government and regulation of the land and naval forces were given to the Congress in article I, section 8, of the U.S. Constitution.

Article IX of the Confederation Articles provided that the yeas and nays of members of Congress were to be entered on the journal when desired by any member of the Congress. The U.S. Constitution article I, section 5 provided for the yeas and nays of members to be entered on the journal when desired by one-fifth of those members present.

The admission of other colonies into the confederation was provided for in article 11 of the Articles of Confederation, while, under the Constitution new States may be admitted by Congress into the Union, under Section 3 of article IV.

So, you see, we had a good roadmap in the Articles of Confederation, which went before the U.S. Constitution.

Congress was given power under the Articles of Confederation to borrow money on the credit of the United States, to build and equip a navy, to agree upon the number of land forces. Under the Constitution, article I, section 8, Congress was given the power to borrow money on the credit of the United States; to raise and support armies; and to provide and maintain a navy.

In article XIII of the Articles of Confederation, every state was required to abide by the determination of Congress, and the Articles of Confederation were to be inviolably observed by every state. The counterpart of these provisions is to be found in the U.S. Constitution, article VI, paragraph 2, where it is provided that the Constitution and the laws of the United States, and all treaties made, ''shall be the supreme law of the land''; and the judges in every state were to be bound thereby.

Article V of the U.S. Constitution provides for amendments to that document when proposed by two-thirds of both Houses of Congress or upon the application of two-thirds of the state legislatures. Amendments to the Articles of Confederation required approval by the Congress, followed by confirmation by the legislature of all the states.

The Articles set up what amounts to a national court system (article IX), but the system functioned only to adjudicate disputes between states, not individuals. Congress could pass no laws directly affecting individuals, and thus the national court had no jurisdiction over individuals. But when Congress was given such power in the 1787 Constitution, the notion of dual citizenship was revolutionized. The invention of dual citizenship in the Articles of Confederation, and then the transfer of this concept to the national constitution in article VI, section 2, was the legal basis for the operation of federalism in all of its many manifestations.

Aside from the narrower grant of power to Congress, and a unicameral legislature in which each state had one vote, the Articles differed from the U.S. Constitution mainly in placing the court directly under Congress and in having the committee of the states (one delegate from each state) instead of a single executive. Characteristic of state constitution were a weak executive, often under the sway of a committee appointed or elected by the legislature, and a court system directly under the legislature. The Articles of Confederation in these respects was not the result of independent theorizing about the best institutions. It was a straightforward extension of Whig political thought to national government.

The Constitution of the United States provided, in article VII, for its ratification by the conventions of nine states. The ratification of any new Constitution, under the Articles of Confederation, required the approval of Congress and the unanimous confirmation by the legislatures of all states.

The Framers of the U.S. Constitution devised an ingenious way of getting around this insuperable requirement of unanimity by the state legislatures, and we can be thankful for that. Otherwise, we would still be governed by the unworkable Articles of Confederation—if, indeed, we had been able to survive as a nation. Ours might have been the balkanized States of America instead of the United States of America. This was done by circumventing the legislatures altogether, and securing ratification directly by the people in state conventions.

Why did the Founders require nine states to ratify the Constitution rather than 13 or a majority of seven? Experience, and the likelihood that Rhode Island would not ratify, made unanimity an impractical alternative. A simple majority of seven might not have included the large states, and the new nation would have been crippled from the start. There was, however, considerable experience with a nine-state requirement in the Continental Congress. You see how these Framers benefited by the experience that had gone before them. Nine states constituted a two-thirds majority. Although such a majority was at times extremely difficult to construct, a provision that satisfied nine states invariably satisfied more than nine. This was a litmus test that the Framers understood, and the two-thirds majority required by the Articles led them to adopt a similar requirement for ratifying the constitution.

Without the Articles of Confederation, the extended republic would have had to be invented out of the writings of Europeans as a rank experiment that a skeptical public would likely not have accepted. On the other hand, Americans had learned that government on a continental basis was possible, in certain respects desirable, and that a stable effective national government required more than an extended republic—it needed power that could be applied directly to individuals. Experience also convinced them that the national government should have limited powers, and that state governments could not be destroyed. There was a logic to experience that no amount of reading and political theory could shake.

Providing for an amendment process was one of the most innovative aspects of both national constitutions. Equally innovative was the provision for admitting new states. History had demonstrated that a nation adding new territory almost invariably treated it as conquered land, as did the ancient Romans, the Greeks, the Persians, and so on. The founders proposed the future addition, on an equal footing, of new states from territories now sparsely settled, if settled at all. The Articles of Confederation is of major historical importance for first containing this extraordinarily liberal provision, which became part of the U.S. Constitution. It guaranteed the building of an extended republic.

The general impression of the people today is that the Articles of Confederation were wholly replaced in 1787, but, in fact, as I have shown, much of what was in the Articles showed up in the 1787 Constitution. As a matter of fact, few Americans today, relatively speaking, know much if anything about the Articles of Confederation or are even aware that such Articles ever existed.

But not only did the Framers of the Constitution copy into that document a great deal of what was contained in the Articles of Confederation, but by virtue of the fact that they had lived under the Articles for over 6 years, they benefited from the experience gained thereby and were thus able to avoid many of the faults and flaws of the Articles by including in the Constitution corrective provisions for such avoidance. In other words, many of the provisions of the U.S. Constitution which have worked so well over these 212 years probably would never have been included in the Constitution, or even thought of, without having had the experience of living under the Articles. It could perhaps better be said that the Framers profited by the mistakes or negative experiences of living under the Articles. In other words, hindsight provided a 20/20 vision to the Framers.

Mr. President, as we examine the roots of our Constitution, how could we avoid taking a look at the British Constitution?

What part did the British Constitution play in the formulation of our own fundamental organic national document? Perhaps not as much directly as did the state constitutions and the Articles of Confederation. Yet, indirectly, woven into the experience of living under the colonial governments and the early state constitutions and the Articles of Confederation there were, running throughout, important threads of the ancient British Constitution that are often overlooked and were accepted as a practice in the early colonial documents and state constitutional forms without conscious attribution. Nevertheless, consciously or not, various rudiments of the American system can be traced back to developments that had occurred in England and even as far back as the Anglo-Saxon period which found their way into the fabric of American constitutionalism. Let us examine some of these antecedents.

Many of the principles imbedded in American constitutionalism look back to the annals of the motherland for their sources and explanations and were carried forward by the political development of many generations of men.

To begin with, our nation was founded by colonists of whom the great majority, let us not forget, were of the English branch of the Teutonic race. For the most part, they were of one blood and their language and social usages were those of Great Britain. It is where my forebearers are from. The same can be said by others here. They brought with them to these North American shores the English law itself, and, for a century or more, they continued in political union with England as members of one empire, often referring to themselves as ''Englishmen away from home'', claiming all of the rights and liberties of British subjects.

Read your history. Forget those modern social studies. Go back to the history. Follow the taproots of our Constitution.

Their institutions were mainly of an English nature, and they possessed in common with their English brethren a certain stock of political ideas. For example, a single executive, a legislative branch consisting of two houses—the British House of Lords, and the British House of Commons—the upper of which

was conservative and the lower of which was representative of the people at large. There were also general principles such as trial by jury, taxation by the elected representatives of the people, and a system of jurisprudence based upon custom and the precedents of the English common law.

These liberties and these rights had been wrenched from tyrannical monarchs over centuries at the cost of blood—the blood of Englishmen, the people of the British Isles, Scotland, Ireland, and Wales.

The earliest representative legislative assembly ever held in America was convened in 1619 at Jamestown and was composed of 22 representatives from several towns and counties. This was the germ of hundreds of later local, town, and state assemblies throughout America.

It also imitated the British Parliament, with the legislative power lodged partly in a Governor who held the place of the sovereign and who was appointed by the British Crown, partly in a council named by a British trading company, and partly in an assembly composed of representatives chosen by the people. Of course, no law was to be enforced until it was ratified by the company in England, and returned to the colony under that company's seal. Other representative legislative assemblies developed throughout the colonies, and laws were allowed to be made as long as such laws were not contrary or repugnant to the laws of England. There were, of course, variation in the systems of government throughout colonial America, but as we will note in the early state constitutions that were developed in 1776, as has already been noted, the repetition in many details of the political systems was evidence of the unanimity with which the colonies followed a common model. Of course the power over the purse—we have talked about that many times, and I will just touch upon it here—is the central strand in the whole cloth of Anglo-American liberty. Let us engage in a kaleidoscopic viewing of the larger mosaic as it was spun on the loom of time. Let us trace a few of the Anglo-Saxon and later English footprints that left their indelible imprint on our own constitutional system. We have too often forgot and it seems to be a fetish these days, that we ought to forget our roots.

Several developments in the course of British history served as guideposts in the formation of the American Constitution. Many of the principles underlying the British Constitution were the result of lessons learned through centuries of strife and conflict between English monarchs and the people they ruled. The rights and liberties and immunities of Englishmen had been established by men who, like the authors of our Declaration of Independence, were willing to risk their lives, their fortunes, and their sacred honor for those rights.

The U.S. Constitution was in several ways built upon a foundation from which the colonies themselves had never really departed but had only adjusted to local needs and conditions and social republican forces that were at play in American colonial life.

The English Constitution was an unwritten constitution, but it includes many written documents such as Magna Carta (1215), the Petition of Right (1628), and the English Bill of Rights (1689), all of which had some part in influencing the formulation and contents of our own Constitution. There were various other English charters, court decisions, and statutes which were components of the English constitutional matrix and which, in one way or another, were reflected in our own organic law framed at Philadelphia.

Among these great English pillars of liberty, for example, as the Presiding Officer knows, were the writ of habeas corpus: ''you shall have the body.'' Habeas corpus was one of the most celebrated of Anglo-American judicial procedures and has been called the ''Great Writ of Liberty''. The name ''habeas corpus'' derives from the opening words of the ancient English Common law writ that commanded the recipient to ''have the body'' of the prisoner present at the court, there to be subject to such disposition as the court might order. In Darnel's Case (1627), during the struggle for Parliamentary supremacy, if a custodian's return to a writ of habeas corpus asserted that the prisoner was held by ''special command'' of the king, the court accepted this as sufficient justification. This case precipitated three House of Commons Resolutions and the Petition of Right, to which Charles I—who later lost his head as well as his throne—gave his assent, declaring habeas corpus available to examine the underlying cause of a detention and, if no legitimate cause be shown, to order the prisoner released. But even these actions did not resolve the matter. Finally, under Charles II, the habeas corpus act of 1679 guaranteed that no British subject should be imprisoned without being speedily brought to trial, and established habeas corpus as an effective remedy to examine the sufficiency of the actual cause for holding a prisoner.

Although the Act did not extend to the American colonies, the principle that the sovereign had to show just cause for detention of an individual was carried across the Atlantic to the colonies and was implicitly incorporated in the federal constitution's Article 1 provision prohibiting suspension of the writ of habeas corpus ''unless when in cases of rebellion or invasion the public safety may require it.''

Another English statute that made its imprint on our federal constitution was the Act of Settlement. Until the late 17th century, royal judges held their offices ''during the king's good pleasure.'' Under the Act of Settlement of 1701, however, judges were to hold office for life instead of at the king's pleasure and could be removed only as a result of charges of misconduct proved in Parliament. This was a crucial step in insuring the independence of the American judiciary. The Constitutional Convention of 1787 adopted the phrase ''during good behavior'' in Article 3, to define the tenure of federal judges in America.

William the Conqueror had brought with him from Normandy the sworn inquest, the forerunner of our own grand jury, to which the fifth amendment of the Constitution refers. According to the Assize of Clarendon in 1166, Henry II ordered the formation of an accusing or presenting jury to be present at each shire court to meet the king's itinerant justices. This was a jury of ''12 of the more competent men of a hundred and by four of the more competent men of each vill'' who were to be put ''on oath to reply truthfully'' about any man in their hundred or vill ''accused or publicly suspected'' of being a murderer, robber, or thief. This accusing jury—like the sworn inquest under William I—was the antecedent of our own modern grand jury.

Like the presentment jury, the trial jury had Continental origins, and by 1164, there was a clear beginning of the use of petit juries in Crown proceedings. It was mostly used in the reign of Henry II (1154–1189) to determine land claims and claims involving other real property. By 1275, in the reign of Edward I, it was established that the petit jury of 12 neighbors would try the guilt of an accused. Five centuries later, jury trial in federal criminal cases was required by Article 3 of the United States Constitution, and was repeated in the sixth amendment of the U.S. Constitution. My, what a long time—five centuries. The seventh amendment provided for a jury trial in civil matters.

The fountainhead of English liberties—those are your liberties and mine—was Magna Carta, signed by King John on June 15, 1215, in the Meadow of Runnymede on the banks of the Thames, and during the next 200 years, the Magna Carta was reconfirmed 44 times. It is one of the enduring symbols of limited government and the rule of law. Consisting of 63 clauses, it proclaimed no abstract principles but simply redressed wrongs. Simple and direct, it was the language of practical men. Henceforth, no freeman was to be ''arrested, imprisoned, dispossessed, outlawed, exiled, or in any way deprived of his standing . . . except by the lawful judgment of his equals and according to the law of the land.'' The phrase ''law of the land'' would become the phrase ''due process of law'' in later England and in our own Bill of Rights.

Other provisions also anticipated principles that would likewise be reflected five centuries later in the U.S. Constitution. There was language, for example, relating to abuses by royal officials in the requisitioning of private

property and thus are the remote ancestor of the requirement of ''just compensation'' in the fifth amendment in our own Bill of Rights. Other clauses required that fines be ''in proportion to the seriousness'' of the offense and that fines not be so heavy as to jeopardize one's ability to make a living—thus planting the seed of the ''excessive fines'' prohibition in the American Bill of Rights' 8th amendment.

In 1368, more than 600 years ago, more than 400 years before the case of *Marbury* v. *Madison* (1803), a statute of Edward III commanded that Magna Carta ''be holden and kept in all Points; and if there be any Statute made to the contrary, it shall be holden for none.''

So here was an early germ of the principle contained in the supremacy clause of the U.S. Constitution's article VI.

Having observed several elements of our own Constitution that have their roots in English history, let us now look at the English beginnings of some of the liberties and immunities secured to us by the American Bill of Rights.

Mr. President, I think this might be a good time for me to take a break, inasmuch as I have something like 8 minutes left.

The PRESIDING OFFICER (Mr. VOINOVICH). The Senator has 6 minutes left.

Mr. BYRD. I have 6 minutes remaining.

Mr. President, I ask unanimous consent that at such time as I regain the floor, I be able to continue my prepared statement, and that it be joined to the statement that has just preceded my yielding the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. And, since I have 5 remaining minutes, let me say again that what I am doing here is attempting to show that the U.S. Constitution is the result of the struggles of men in centuries before our own, this last year of the 20th century. Forget what the media says, forget what politicians say, this is not the first year of the 21st century, nor is it the first year of the third millennium. Anybody who can count, whether they use the old math or the new math, knows better than that. This is the last year of the 20th century.

But I want to show that these liberties, which were assured to us by our Federal Constitution, did not just spring up overnight like the prophet's gourd at Philadelphia. They had their roots going back decades, centuries—1,000 years or more, and that those roots and those documents—the Articles of Confederation, the State constitutions, the colonial documents, the covenants—the Mayflower Compact and all of these things—were known by the framers and they were guided in their writing of the Federal Constitution by the experience that had been gained by living under the articles, by living in the colonies, and by the lessons taught by the British experience which had come at the point of a sword and through the shedding of blood through many centuries before. This is not just something that sprang up there between May 25 and September 17, a total of 116 days in 1787.

I think it is good for us, as Members of the House and Senate, to just stop once in a while and draw back, take a look at the forest, try to see the forest and not just the trees, and restudy our history, restudy our roots, and establish ourselves again in the perspective of those Framers and their experiences, and understand that Marshall had it right when he said that the Constitution was meant to endure for ages.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I thank my good friend and colleague from West Virginia. For over 25 years, he has been my mentor in the Senate. I probably learned more about the Constitution's history and certainly the procedures of the Senate from him than from anything I have read or anybody else I have known. He is like my late father, one who reveres history because history to him is not just a compilation of dates and facts, but it is the roots of what we are and who we are and where we will go.

The distinguished Senator from West Virginia has cast well over 15,000 votes. I know he could tell me exactly how many he has cast, but it has been well over 15,000 votes. It is the record. I have been privileged to cast over 10,000 votes, and I appreciate the kind words he said when I cast that 10,000th. But those 10,000 votes, those 15,000 votes, many were in serious matters. Some were in procedural matters. Most were on legislation, statutes, laws, amendments—some on treaties. But it is so rare to be actually coming to vote on the issue of a constitutional amendment.

As important as all the statutes, all the treaties, even all the procedural matters are—because the distinguished Senator from West Virginia knows better than anybody else here, a procedural vote often is the determining vote—I think he would agree with me that the two most important votes you might cast would be on a declaration of war or on a constitutional amendment. In many ways, the country may be affected more by a constitutional amendment than by a declaration of war.

The distinguished Senator from West Virginia, my dear friend, has done the Senate and I think the country a service by saying let us pause a moment and ask how we got here. Actually, not only how we got here but why we got here. The answers to those two questions reveals that we should not amend the Constitution this way. It does not even begin to reach that article V level of necessity.

I thank my friend. I don't wish to embarrass him. I know he has been in some discomfort from a procedure on his eye. As one who, for other reasons, is very sensitive to that, I know he did this at some discomfort, but he said something that we should all hear.

I thank him and I yield the floor.

Mr. BYRD. Mr. President, before I yield, if I may, before I yield to the distinguished Senator from Minnesota who has already been so very gracious and considerate to me, I thank my friend from Vermont. I have learned a lot of lessons from him. We can learn from one another. It is easy, very easy if we try.

I appreciate his friendship. I appreciate his statesmanship. I am very grateful for his being a stalwart defender of this great Constitution and one who has voted, alongside me, in many what I consider to be pretty critical votes that we have cast in this Senate.

I close my statement today with these words from Henry Clay:

> The Constitution of the United States was made not merely for the generation that then existed, but for posterity—unlimited, undefined, endless, perpetual posterity.

Clay made those remarks in a Senate speech on January 29, 1850.

Mr. President, I ask unanimous consent that at the close of my remarks, when I have finally brought them to a close this day, the following articles be printed in the RECORD:

A Washington Post editorial of Monday, April 24, titled ''Victims and the Constitution;'' a Washington Post column by George Will titled ''Tinkering Again;'' an item from the National Journal of April 22 titled ''Victims' Rights: Leave the Constitution Alone,'' by Stuart Taylor, Jr.; and an editorial from the New York Times of Saturday, April 3, titled ''Don't Victimize the Constitution.''

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Apr. 24, 2000]

VICTIMS AND THE CONSTITUTION

The Senate is expected soon to take up a victims rights amendment to the Constitution. The laudable goal is to protect the interests of victims of violent crime in proceedings affecting them. But the amendment by Sens. Jon Kyl (R–Ariz.) and Dianne Feinstein (D–Calif.), now gaining support, threatens both prosecutorial interests and the rights of the accused. It should be rejected.

The measure would give victims the right to be notified of any public proceedings arising from the offense against them, to be present at such hearings and to testify when the issues are parole, plea agreements or sentencing. Victims would be notified of the release or escape of a perpetrator or any consideration of executive clemency. They would also be entitled to orders of restitution and to consideration of their interest in speedy trials.

Many of these protections already exist in statute. But the rights of victims properly are bounded under the Constitution by the need to guarantee defendants a fair trial. A defendant's right to a fair trial, for example, should not depend on a victim's interest in seeing justice swiftly done. It may sound perverse to elevate the rights of defendants often correctly accused of crimes above those of their victims. But rights of the accused flow out of the fact that the government is seeking to deprive them of liberty—

or, in some cases, life. In doing so, it already is representing the interests of their victims in seeing justice done.

The Clinton administration backs a constitutional amendment (though it has troubles with the specific language in the current proposal), but it is also worth noting that some prosecutors believe the amendment would hurt law enforcement. Beth Wilkinson, one of the prosecutors in the Oklahoma City bombing case, wrote in these pages last year that ''our prosecution could have been substantially impaired had the constitutional amendment now under consideration been in place.'' The fundamental right of victims is to have government pursue justice on their—and the larger society's—behalf. To interfere with that in the victims' own name would be wrongheaded in the extreme.

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[From the Washington Post, Apr. 23, 2000]

TINKERING AGAIN

(By George F. Will)

Congress's constitutional fidgets continue. For the fourth time in 29 days there will be a vote on a constitutional amendment. The House failed to constitutionalize fiscal policy with an amendment to require a balanced budget. The Senate failed to eviscerate the First Amendment by empowering Congress to set ''reasonable limits'' on the funding of political speech. The Senate failed to stop the epidemic of flag burning by an amendment empowering Congress to ban flag desecration. And this week the Senate will vote on an amendment to protect the rights of crime victims.

Because many conservatives consider the amendment a corrective for a justice system too tilted toward the rights of the accused, because liberals relish minting new rights and federalizing things, and because no one enjoys voting against victims, the vote is expected to be close. But the amendment is imprudent.

The amendment would give victims of violent crimes rights to ''reasonable'' notice of and access to public proceedings pertaining to the crime; to be heard at, or to submit a statement to, proceedings to determine conditional release from custody, plea bargaining, sentencing or hearings pertaining to parole, pardon or commutation of sentence; reasonable notice of, and consideration of victim safety regarding, a release or escape from custody relating to the crime; a trial free from unreasonable delay; restitution from convicted offenders.

Were this amendment added to the Constitution, America would need more—a lot more—appellate judges to handle avalanches of litigation, starting with the definition of ''victim.'' For example, how many relatives or loved ones of a murder victim will have victims' rights? Then there are all the requirements of ''reasonableness.'' The Supreme Court—never mind lower courts—has heard more than 100 cases since 1961 just about the meaning of the Fourth Amendment's prohibition of ''unreasonable'' searches.

What is the meaning of the right to ''consideration'' regarding release of a prisoner? And if victims acquire this amendment's panoply of participatory rights, what becomes of, for example, a victim who is also a witness testifying in the trial, and therefore not entitled to unlimited attendance? What is the right of the victim to object to a plea bargain that a prosecutor might strike with a criminal in order to reach other criminals who are more dangerous to society but are of no interest to the victim?

Federalism considerations also argue against this amendment, and not only because it is an unfunded mandate of unknowable cost. States have general police powers. As the Supreme Court has recently reaffirmed, the federal government—never mind its promiscuous federalizing of crimes in recent decades—does not. Thus Roger Pilon, director of the Center for Constitutional Studies at the Cato Institute, says the Victims' Rights Amendment is discordant with ''the very structure and purpose of the Constitution.''

Pilon says the Framers' ''guarded'' approach to constitutionalism was to limit government to certain ends and certain ways of pursuing them. Government, they thought, existed to secure natural rights—rights that do not derive from government. Thus the Bill of Rights consists of grand negatives, saying what government may not do. But the Victims' Rights Amendment has, Pilon says, the flavor of certain European constitutions that treat rights not as liberties government must respect but as entitlements government must provide.

There should be a powerful predisposition against unnecessary tinkering with the nation's constituting document, reverence for which is diminished by treating it as malleable. And all of the Victims' Rights Amendment's aims can be, and in many cases are being, more appropriately and expeditiously addressed by states, which can fine-tune their experiments with victims' rights more easily than can the federal government after it constitutionalizes those rights.

The fact that all 50 states have addressed victims' rights with constitutional amendments or statutes, or both, strengthens the suspicion that the proposed amendment is (as the Equal Rights Amendment would have been) an exercise in using—misusing, actually—the Constitution for the expressive purpose of affirming a sentiment or aspiration. The Constitution would be diminished by treating it as a bulletin board for admirable sentiments and a place to give special dignity to certain social policies. (Remember the jest that libraries used to file the French constitution under periodicals.)

The Constitution has been amended just 18 times (counting ratification of the first 10 amendments as a single act) in 211 years. The 19th time should not be for the Victims' Rights Amendment. It would be constitutional clutter, unnecessary, and because it would require constant judicial exegesis, a source of vast uncertainty in the administration of justice.

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[From the National Journal, Apr. 22, 2000]

VICTIMS' RIGHTS: LEAVE THE CONSTITUTION ALONE

(By Stuart Taylor, Jr.)

Chances are that most Senators have not really read the proposed Victims' Rights Amendment, which is scheduled to come to the floor for the first time on April 25. After all, it's kind of wordy—almost as long as the Constitution's first 10 amendments (the Bill of Rights) combined. And you don't have to go far into it to understand two key points.

The first is that a ''no'' vote would open the way for political adversaries to claim that ''Senator So-an-so sold out the rights of crime victims.'' This helps explain why the proposed amendment has a chance of winning the required two-thirds majorities in both the Senate and the House. Sponsored by Sen. Jon Kyl, R–Ariz., it has 41 cosponsors (28 Republicans and 13 Democrats), including Dianne Feinstein, D–Calif., and has garnered rhetorical support from President Clinton, Vice President Gore, and Attorney General Janet Reno. (The Justice Department has hedged its endorsement of the fine print because of the deep misgivings of many of its officials.)

The second point is that even though the criminal justice system often mistreats victims, this well-intentioned proposal is unnecessary, undemocratic, and at odds with principles of federalism. Unnecessary because victims' groups like Mothers Against Drunk Driving have far more political clout than do accused criminals. Victims' groups can and have used this influence to push their elected officials to augment the victims' rights provisions that every state has already adopted. These include both statutes and (state) constitutional amendments, not to mention federal legislation, such as the Violence Against Women Act. Undemocratic and inconsistent with federalism because this proposal—like others currently in vogue—would shift power from voters and their elected officials (state and federal alike) to unelected federal judges, whose liberal or conservative predilections would often influence how they resolve the amendment's gaping ambiguities.

None of this is to deny that many victims—especially in poor and minority communities—are still given short shrift by prosecutors, judges, and parole officials, or that further legislation may be warranted. But would enshrining victims' rights in the Constitution be more effective than enumerating them in ordinary statutes?

Consider the proposed amendment's specific provisions. They would guarantee every ''victim of a crime of violence'' the right to be notified of and ''not to be excluded from'' trials and other public proceedings ''relating to the crime,'' as well as the right ''to be heard'' before critical decisions are made on pre-trial release of defendants, acceptance of plea bargains, sentencing, and parole. In addition, courts would be required to consider crime victims' interests in having any trial be ''free from unreasonable delay,'' and to consider their safety ''in determining any conditional release from custody relating to the crime.'' Other provisions would entitle victims to ''reasonable notice of a release or escape from custody relating to the crime'' and ''an order of restitution from the convicted offender.''

All very worthy objectives. But rights are enumerated in the Constitution mainly to protect powerless and vulnerable minorities—such as criminal defendants, who face possible loss of their liberty or even loss of life—from abuse by majoritarian governments. Amending the Constitution to promote popular causes is rarely a good idea, and advocates of the proposed Victims' Rights Amendment have failed to identify any legitimate interests of victims that cannot be protected legislatively, or any constitutional rights of defendants that stand in the way.

Moreover, to think that putting into the Constitution such benignly vague language as ''free from unreasonable delay'' will have some magical effect—such as cutting through the bureaucratic inertia and resistance that some say have blunted the effect of victims' rights statutes—is both fatuous and belied by our history. And any effort to add enough detail to eliminate ambiguities would distend our fundamental charter into something more like the Code of Federal Regulations.

Of course, at some point the objective of promoting victims' rights bumps up against other worthy goals. They include protecting defendants' rights to due process of law and other procedural protections against wrongful conviction, and giving prosecutors discretion to negotiate plea bargains with some defendants when necessary to get evidence against others.

If the courts were to construe the proposed amendment so narrowly as to leave such traditional rules and practices undisturbed, it would amount to vain tokenism. If, on the other hand, they were to construe the

amendment broadly, it could foment legal confusion; set off torrents of new litigation by and among people claiming to be ''victims'' (a term that the amendment does not define); saddle the legal system with new costs and delays; and even increase the risks that innocent defendants would be convicted, that some of the guilty would escape punishment, and that some victims would be further victimized.

The most obvious risks the amendment poses to innocent defendants—and as President Clinton has discovered, we are all potential defendants—have been detailed by the American Civil Liberties Union. Courts could use the amendment to deny defendants and their counsel enough time to gather evidence of innocence before trial. They might also allow all victim-witnesses to be present when other witnesses are on the stand, even when this could compromise the reliability of the victim-witnesses' own testimony. (Current rules often require sequestering witnesses to prevent them from influencing one another's testimony.)

The risk of a guilty person's escaping punishment would be enhanced if courts used victims' objections as a basis for blocking prosecutors from entering legitimate plea bargains or for requiring them to justify such plea bargains by disclosing their strategies and any weaknesses in their evidence. Consider, for example, what might have happened to the Justice Department's effort to bring now-convicted Oklahoma City bomber Timothy McVeigh to justice if the Victims' Rights Amendment had been in effect in 1995.

Hundreds of victims—the injured and the survivors of the 168 people who died—could have invoked the amendment. Crucial evidence, provided by a witness named Michael Fortier, which helped convict McVeigh and co-defendant Terry Nichols, might have been unavailable if victims who opposed the prosecution's plea bargain with Fortier had been able to derail it, according to congressional testimony by Beth A. Wilkinson, a member of the prosecution team. Emmett E. Welch, whose daughter Julie was among those killed by McVeigh's bomb, testified at another hearing that ''I was so angry after she was killed that I wanted McVeigh and Nichols killed without a trial. . . . I think victims are too emotionally involved in the case and will not make the best decisions about how to handle the case.''

Of course, victims' interests would hardly be served by convicting the innocent or by making it harder to bring the guilty to justice. And some victims could be hurt more directly—for example, battered wives who complain to authorities only to be accused of assault by their victimizers, who can then invoke their own ''victims' rights.''

In short, the proposed constitutional amendment would do little or nothing more for crime victims than would ordinary state or federal legislation, and might in some cases be bad for them. That's why even some victims' groups, including the National Network to End Domestic Violence, are against it.

Most of us agree, of course, that prosecutors and judges should be nice to crime victims (as they usually are). Most of us also agree that parents should be nice to their children. But would we adopt a constitutional amendment declaring, ''Parents shall be nice to their children''? Or ''Parents shall give their children reasonable notice and an opportunity to be heard before deciding whether and how to punish older children who have pushed them around''? Would we leave it to the courts to define the meaning of terms like reasonable and nice? A ban on spanking, perhaps? A minimum of one candy bar per day? Would we let the courts override all state and federal laws that conflict with their interpretations?

We don't need constitutional amendments to embody our broad agreement on such general principles. And we should leave it to the states (and Congress) to detail rules for applying such principles to the messy realities of life, as the states do in laws dealing with child abuse and neglect. Legislatures periodically revise and update such laws—as they revise and update victims' rights laws—to correct unwise judicial interpretations, fix unanticipated problems, resolve troublesome ambiguities, and incorporate evolving social values. It would be far, far harder to revise or update a constitutional amendment.

James Madison wrote that the Constitution's cumbersome amendment process was designed for ''great and extraordinary occasions.'' This doesn't come close.

[From the New York Times, Apr. 3, 2000]

DON'T VICTIMIZE THE CONSTITUTION

Some bad ideas keep recycling back. The latest version of the so-called ''victims' rights amendment'' to the Constitution, a pandering and potentially disruptive measure, is being readied for a full Senate vote by the end of the month.

There is no question that victims of violent crime deserve respect and sympathy in the criminal process, and programs to help them recover from their trauma. But adding this amendment to the nation's bedrock charter could alter the Constitution's delicate balance between accuser and accused, and even end up subverting the victims' main interest—timely and fair prosecution and conviction of their assailants.

To protect victims from insensitive treatment as their cases move through the criminal system, the amendment would establish a new constitutional mandate that victims be notified and allowed to participate in prosecutorial decisions and judicial proceedings. There is widespread concern among the defense bar, the law enforcement community and even some victims' rights groups that the amendment would undermine defendants' rights, give rise to litigation that delays trials and interfere with legitimate plea bargain deals and other aspects of prosecutorial discretion. States are already experimenting to find practical ways to address victims' complaints, consistent with the demands on prosecutors and constitutional protections for defendants. To the extend improvements are needed, the answer is to pass laws to fine-tune the system, not clutter the Constitution.

The bill's two main sponsors—Senators Jon Kyl, an Arizona Republican, and Dianne Feinstein, a California Democrat—have been busily rounding up new co-sponsors. All are supporting an amendment that could inflict unintended consequences on victims, the justice system and the Bill of Rights.

Mr. BYRD. Mr. President, I shall have more to say along this line. I shall wait until another date to address this particular amendment that is before the Senate.

I yield the floor and again thank the Senator from Minnesota and thank my friend from Vermont.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. WELLSTONE. I thank the Chair.

Mr. President, I am more than pleased to give the Senator from West Virginia a good deal of my time. His words are profoundly important. I do not think there is anybody else in the Senate who can speak on this question the way Senator BYRD can, and I hope Senators hear him.

After hearing Senator BYRD, I am going to be very brief. I do not know what I can add to what has been said by other Senators. The way I want to make my argument in just a couple of minutes, actually, is to say this: Senator FEINSTEIN asked me: Do you need to be down on the floor and is it going to be one of these back-and-forth slugfest debates? I said: No, not at all. I do not have any disrespect for what you and Senator KYL are doing, two colleagues whom I like; it is just that, for me, I am reluctant to support any constitutional amendments.

The bar is very high. It is a high threshold test to me. Even for such a noble purpose as campaign finance reform, when Senator HOLLINGS offered his amendment, I did not vote for it. I did not vote for a constitutional amendment to ban the desecration of the flag. I believe there have to be compelling reasons to vote for a constitutional amendment, and I do not think my colleagues have made a compelling case.

I point out that States have moved forward with their own victims' rights legislation or constitutional amendments and, to my knowledge, their work has not been successfully challenged in the courts. I point out that Senators LEAHY and KENNEDY have legislation that gives victims more rights. They want to do it statutorily.

As I see it—and I am not a lawyer—first we go this route and see what the States do. We can also say this is a national concern, a national question. Certainly that is my framework. I do not want to be inconsistent. First we try it statutorily. We pass our law. If the Supreme Court judicial review declares the law to be null and void, then at that point in time we may, indeed, want to come forward and say there is no alternative but to amend the Constitution.

The Chair will smile but I am conservative about this question, for all the reasons Senator BYRD has so ably explained to all of us.

The second point I wish to make is a little different, and it is my own way of thinking about it. I do believe, if we are going to talk about victims' rights, there is a whole lot I want us to do. I want us out here legislating. I made this argument this morning, and I do not know that I need to make it again.

Mr. President, I yield to the Senator from New Mexico for a moment.

Mr. BINGAMAN. Mr. President, I thank the Senator from Minnesota. I yield a half hour from the time I have under cloture to Senator DASCHLE, the leader on the Democratic side.

Mr. LEAHY. Mr. President, if the Senator will withhold, I wonder, just from a discussion I have had since I last spoke with him, would the Senator be willing to yield that half hour to the distinguished Senator from West Virginia, Mr. BYRD?

Mr. BINGAMAN. Mr. President, I so yield the time to the Senator from West Virginia. I thank the Senator from Minnesota and yield the floor.

Mr. WELLSTONE. Mr. President, my second argument is that I want, to the best of my ability, to represent the people in Minnesota, for that matter the people in the country, and I can think of a lot of legislation we could be working on that will give victims more rights.

I have legislation I have been trying to get out on the floor which deals with violence against women and children—they are victims—that provides more protection, that can prevent this violence, that can save lives. Let's get at it legislatively. I do not say it so much in response to this effort on the part of my colleagues from California and Arizona, but, again what I was saying this morning, I hope soon we will get back to the vitality of the Senate, which is we go at it; we have legislation; we have vehicles; and we have amendments. We bring legislation to the floor, we debate, and we vote up or down. That is what we are here to do.

I say to my colleagues who are concerned about victims' rights, I have legislation I want to bring to the floor that I believe does a whole lot by way of protecting victims, by way of making sure people do not become victims, in particular women and children.

My third point is, of course, one of the problems with a constitutional amendment as opposed to a statutory alternative is that it is very difficult to undo what is done. There are some questions I have about this effort. A lot of the work I do with my wife Sheila deals with violence directed at women and children, what some call domestic violence. I ask unanimous consent that letters from the National Clearinghouse For The Defense of Battered Women and the National Network to End Domestic Violence be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

NATIONAL CLEARINGHOUSE FOR THE DEFENSE OF BATTERED WOMEN
Philadelphia, PA, April 14, 2000.

Senator WELLSTONE,
U.S. Senate,
Washington, DC.

DEAR SENATOR WELLSTONE: We are writing to you to express our strong opposition to S.J. Res. 3, the proposed victims' rights amendment to the Constitution of the United States.

The National Clearinghouse for the Defense of Battered Women has opposed each version of the proposed victims' rights amendments that has been introduced over the past four years. After reviewing S.J. Res. 3, the National Clearinghouse for the Defense of Battered Women stands firm in our opposition. Although the current proposed amendment addresses some of the issues we raised in the past, we continue to have grave concerns about the new proposal and continue to oppose it.

We have attached the position paper of the National Clearinghouse for the Defense of Battered Women opposing S.J. Res. 3. We believe that our arguments remain compelling and relevant to the newly proposed amendment.

In the interests of ensuring justice for battered women and children, we urge you to vote ''no'' to the amendment.

Sincerely,

SUE OSTHOFF,
Director.

NATIONAL NETWORK TO END DOMESTIC VIOLENCE,
Washington, DC, March 23, 1999.

Hon. ORRIN HATCH,
Chairman, Judiciary Committee,
U.S. Senate, Washington, DC.

DEAR CHAIRMAN HATCH: I write to apprise you of our continued opposition to the proposed constitutional amendment to protect the rights of crime victims. After careful review and consideration of S.J. Res. 6, we find that despite some minor changes since the 105th Congress our concerns with this proposed constitutional amendment have not changed.

The National Network to end Domestic Violence is a membership organization of state domestic violence coalitions from around the country, representing nearly 2,000 domestic violence programs nationwide. As you may be aware, many of our member coalitions and programs have supported the various state constitutional amendments and statutory enactments similar to the proposed federal constitutional amendment. And yet, we view the proposed federal constitutional amendment as a different proposition, both in kind and in process.

For a victim of domestic violence, the prospect of participating in a protracted criminal proceeding against an abusive husband or father of her children is difficult enough without the added burden of an unforgiving system. Prosecutors, police, judges, prison officials and others in the criminal justice system may not understand her fear, may not have provided for her safety, and may be unwilling to hear fully the story of the violence she's experienced and the potential impact on the impending criminal proceeding sentencing and release of the defendant. Each of these potential failures in the system underscore the need for the criminal justice system to pay closer attention to the needs of victims. Unfortunately, S.J. Res. 6 promises much for victims, but guarantees little on which victims can count to address these practicalities.

Let me outline some of our concerns.

First, if a constitutional right is to mean anything at all, it must be enforceable fully by those whose rights are violated. The proposed amendment expressly precludes any such enforcement rights during a proceeding or against any of those who are charged with securing the constitutional rights. The lack of such an enforcement mechanism is a fatal flaw—a mere gift at the leisure of federal, state and local authorities.

Secondly, the majority of the existing similar state statutes and constitutional amendments have been on the books fewer than 10 years. Thus, given our very limited experience with their implementation, it will be many years before we have sufficient knowledge to craft a federal amendment that will maintain the delicate balance of constitutional rights that ensure fairness in our judicial process. Without benefiting from the state experience, we run the risk of harming victims. We must explore adequately the effectiveness of such laws and the nuances of the various provisions before changing the federal constitution. State constitutions are different—they are more fluid, more amenable to adjustments if we need to ''fix'' things. A change in the federal constitution would allow no such flexibility, thus potentially harming victims by leaving no way to turn back.

And, lastly preserving constitutional protections for defendants, ultimately protects victims. This is especially true for domestic violence victims. The distinctions between defendant and victim are sometimes blurred by circumstance. For a battered woman who finds herself thrust into the criminal justice system for defending herself or having been coerced into crime by her abuser, a justice system that fairly guarantees rights for a defendant may be the only protection she has. Her ultimate safety may be jeopardized in a system of inadequate or uneven protections for criminal defendants, as is likely with the enactment of S.J. Res. 6.

Chairman Hatch, these are concerns that compel us to exercise restraint before proceeding with a constitutional amendment. As you know, in this country each year, too many fall victim to violent crime. These crimes cause death and bodily injury, leaving countless victims—women, men, boys and girls—to pick up the pieces. Tragically, the criminal justice system is less a partner and more an obstacle to the crime victim's ability to attain justice. A constitutional amendment is not the answer for this problem. But, improving policies, practices, procedures and training in the system would help tremendously.

Like you, we are committed to ensuring safety for domestic violence victims through strong criminal justice system enforcement and critical services for victims. However, the resources that must be invested into the process of passing such an amendment and getting it ratified by the states could be better invested in training and education of our judiciary, prosecutors, police, parole boards and others who encounter victims and in changing the regulations and procedures that most adversely impact victims. For those of us working in the field of domestic violence, we know the harm that can be caused directly to victims when policies are pushed without some experience to know whether they will work. And, while this may seem an inconsequential concern, for a battered woman whose safety may be jeopardized by such swift but uncertain action, the difference may be her life.

Please understand that our opposition to S.J. Res. 6 is not opposition to working through the traditional legislative channels to deliberate these issues and to support legislative changes that will allow us to explore various ways in which we can provide victims the voice they deserve in the criminal justice system.

Thank you for your consideration. If you have additional questions, please do not hesitate to be in touch with me at 202/543–5566. We have appreciated your leadership on issues concerning domestic violence over the years and look forward to continuing to work with you.

Sincerely,

DONNA F. EDWARDS,
Executive Director.

Mr. WELLSTONE. Mr. President, there is a tremendous amount of concern that what will happen is that batterers—and it is happening all too often right now—can accuse those whom they have battered as being the batterers, basically saying they are the victims, which then, in turn, triggers all sorts of rights that are in this amendment.

There is tremendous concern, and I will not read through all of it, when it comes to a particular part of the population—women and children who are, unfortunately, the victims of this violence in the homes—that, in fact, this constitutional amendment will have precisely the opposite effect that is intended, especially when it comes to

protection for women and children; it will lessen that protection for women and children.

I quote from the NOW Legal Defense and Education Fund:

While many women are victims of violent crime, women are also criminal defendants. Self-defense cases, dual arrest situations, or the abuse of mandatory arrest and mandatory prosecution policies by batterers who allege abuse by the victim, exemplify contexts in which women victimized by violence may need the vital constitutional protections afforded defendants.

There is a whole question of how this gets implemented, what happens to these women and children. Given the fact this is a big part of my work in the Senate, I ask unanimous consent that this NOW Legal Defense Fund position paper be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NOW LEGAL DEFENSE AND EDUCATION FUND,
New York, NY, April, 2000.

POSITION STATEMENT ON PROPOSED VICTIMS' RIGHTS AMENDMENT

Legislators in the 106th Congress plan to introduce a proposal to amend the U.S. Constitution by adding a ''Victims' Rights Amendment.'' Because NOW Legal Defense and Education Fund (NOW LDEF) chairs the National Task Force on Violence Against Women, and, as an organization that works extensively on behalf of women who are victims of violent crime, including our fight against domestic violence, sexual assault, and all forms of gender-based violence, we have been asked to analyze this proposal.

NOW LDEF agrees with sponsors of victims' rights legislative initiatives that many survivors of violent crime suffer additional victimization by the criminal justice system. We appreciate the injustices and the physical and emotional devastation that drives the initiative for constitutional protection. Nonetheless, we do not agree that amending the federal Constitution is the best strategy for improving the experience of victims as they proceed through the criminal prosecution and trial against an accused perpetrator. Any such amendment raises concerns that outweigh its benefits. After considering the potential benefits and hardships, and particularly considering the circumstances of women who are criminal defendants, NOW LDEF cannot endorse a federal constitutional amendment elevating the legal rights of victims to those currently afforded the accused. However, we fully endorse companion efforts to improve the criminal justice system, including initiatives to ensure consistent enforcement of existing federal and state laws, and enactment and enforcement of additional statutory reform that provide important protections for women victimized by gender-based violence.

The need to improve the criminal justice system's response to women victimized by violence

It is true that survivors of violence often are pushed to the side by the criminal justice system. They may not be informed when judicial proceedings are taking place or told how the system will work. Although many jurisdictions are working on improving their interactions with victims, many victims still experience the judicial system as an ordeal to be endured, or as a forum from which they are excluded. They often experience a loss of control that exacerbates the psychological impact of the crime itself. Certainly women victimized by violence face the persistent gender bias in our criminal justice system, which includes courts and prosecutors that fail to prosecute sexual assault, domestic violence, and other forms of violence against women as vigorously as other crimes. All too often, criminal justice officials blame the victims for ''asking for it'' or for failing to fight back or leave. these negative experiences make it more difficult for women victimized by violence to recover from the trauma and may contribute to reduced reporting and prosecution of violent crimes against women.

As amendment proponents have stressed, increased efforts to promote victims' rights potentially could have a strong and positive impact on women who are victims of crime. The entire public relations and educational campaign mounted on behalf of the amendment can be very informative. Criminal justice system reform can give victims a greater voice in criminal justice proceedings and could increase their control over the impact of the crime on their lives. For example, notice of and participation in court proceedings, including the ability to choose to be present and express their views at sentencing, could be psychologically healing for victims.

More timely information about release or escape and reasonable measures to protect the victim from future stalking and violence could improve women's safety. Women could benefit economically from restitution. Nevertheless, because statutory protections and state constitutional provisions already may provide some or all of these improvements, because additional statutory and state-level reform can be enacted, and because no reform will be effective absent strict enforcement, we do not support a federal constitutional amendment to address the problems facing women crime victims.

Why a Federal Victims' Rights constitutional amendment is problematic

Supporters of a federal victim's rights constitutional amendment begin with the fundamental premise that survivors of violence deserve the same protections that our judicial system affords to an accused perpetrator, and that their interests merit equal weight in the eyes of the state. They urge amending the U.S. Constitution to balance treatment of victims and defendants, positing that other protections, whether granted by statute, or implemented through policy, custom, training or education, could be limited at some point by the rights guaranteed to defendants under the Fourth, Fifth, Sixth and Eighth Amendments to the federal Constitution. However, adding constitutional protections that could offset the fundamental constitutional protections afforded defendants marks a radical break with over two hundred years of law and tradition carefully balancing the rights of criminal defendants against the exercise of state and federal power against them.[1] It is our belief that the proposed reforms can be afforded under statutes and state constitutions. The constitutional amendment proposal contains complex requirements that are far better suited for statutory reform.

The position of a survivor of violence can never be deemed legally equivalent to the position of an individual accused of a crime.[2] The accused—who must be presumed innocent, and may in fact be innocent—is at the mercy of the government, and faces losing her liberty, property, or even her life as a consequence. While the crime victim may have suffered grievous losses, she, unlike the defendant, is not subject to state control and authority. A victims' rights constitutional amendment could undercut the constitutional presumption of innocence by naming and protecting the victim as such before the defendant is found guilty of committing the crime. Amendment proposals leave undefined numerous questions ranging from the definition of a ''victim'' to whether victims would be afforded a right to counsel, or how victims' proposed right to a speedy trial would be balanced against defendants' due process rights. Proposals also inject an additional party (the victim and her attorney), to the proceedings against a defendant as a matter of right, increasing the power of the state and potentially diminishing the rights of the accused, particularly in the eyes of a jury.

The demonstrated existing inequalities of race and class in the modern American criminal justice system only increase the importance of defendants' guaranteed rights. Affording alleged and actual crime victims a constitutional right to participate in criminal proceedings could provide a basis for challenge to those bedrock principles that assure justice and liberty for all citizens.

While many women are victims of violent crime, women are also criminal defendants. Self-defense cases, dual arrest situations, or the abuse of mandatory arrest and mandatory prosecution policies by batterers who allege abuse by the victim, exemplify contexts in which women victimized by violence may need the vital constitutional protections afforded defendants. These cases highlight the need for constitutional protection for criminal defendants belonging to groups historically subject to discrimination.

Proposed alternatives to address the needs of women victimized by violence

NOW LDEF supports efforts to improve the experience of victims in the criminal justice process. Many statutes and state constitutions already contain the reforms contained in amendment proposals. Additional mechanisms for change include enhanced implementation and enforcement of existing state and federal legislation, enacting new statutory protections, increased training for judicial, prosecutorial, probation, parole and police personnel, and improved services for victims such as the more widespread use of victim-witness advocates. Funding available under the Violence Against Women Act can continue to be directed to crucial training and victims' services efforts. Additional statutory reform and funding for program implementation, particularly targeted to eliminate gender bias in all aspects of the criminal justice system can go a long way toward assisting women who have survived crimes of violence.

Statutory reform requiring prosecutors and other criminal justice system officials to take such measures as requiring timely notice to victims of court proceedings are modest and relatively inexpensive steps that would have a great impact. We must work to provide better protection for victims—through consistent enforcement of restraining orders, and by training law enforcement officials and judges about rape, battering and stalking, so that arrest and release decisions accurately reflect the potential harm the defendant poses. NOW LDEF hopes the attention drawn to this issue will promote greater dialogue about the problems that victims face in the criminal justice system, and will increase the criminal justice system's responsiveness to women victimized by gender-motivated violence.

FOOTNOTES

[1] Reported litigation under state constitutional amendments is limited, but illustrates the potential conflicts in balancing the rights of victims and the rights of the defendants. While in some cases the victim's state rights did not infringe on the defendant's federal rights, *see, e.g., Bellamy v. State of Florida,* 594 S.2d 337, 338 (Fla. App. 1st Dep't 1992) (mere

Footnotes at end of statement.

presence of the victim in the courtroom in a sexual battery case would not prejudice the jury against the defendant), in others the defendant's federal rights took primacy. *See. e.g., State of New Mexico v. Gonzales*, 912 P.2d 297, 300 (N.M. App. 1996) (sexual assault victim's rights to fairness, dignity and privacy under state amendment did not allow her to prevent disclosure of medical records to defendant); *State of Arizona ex rel Romely v. Superior Court*, 836 P.2d 445, 449 (Ct. App. Ariz. 1992) (despite victim's right to refuse deposition in this case where defendant claimed she stabbed her husband in self-defense, she would be unable to present a sufficient defense without the deposition and thus she could force him to be deposed).

[2]It may be less legally problematic to recognize the interests of victims by affording them a voice at sentencing or at another post-trial proceeding, after a defendant's guilt has been determined.

Mr. WELLSTONE. Mr. President, I thank my colleagues for their effort. Again, the threshold has to be very high. I speak in opposition.

With the indulgence of my colleagues, since I have been out here for a good period of time, I ask unanimous consent that I may have 5 more minutes for morning business to cover two matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. I thank the Chair.

(The remarks of Mr. WELLSTONE pertaining to the introduction of S. 2465 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I yield to the Senator from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. EDWARDS. I yield 30 minutes of my time to the Democratic leader, Senator DASCHLE.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I would like to correct the RECORD with respect to the effectiveness of the Victims Rights Clarification Act of 1997.

In the course of this debate on this proposed constitutional amendment, the two principal sponsors of this constitutional amendment, my friends Senator KYL and Senator FEINSTEIN, have spoken at some length about the Oklahoma City bombing cases. They have repeatedly cited that case as evidence that Federal statutes are not adequate for protecting crime victims, and that nothing but a constitutional amendment will do the trick.

They have said that ''the Oklahoma City case provides a compelling illustration of why a constitutional amendment is necessary to fully protect victims' rights in this country'' and that the case shows ''why a statute won't work.''

I have a very different take on the lessons to be learned from the Oklahoma City bombing cases. In my view, what happened in that case is a textbook example of how statutes can and do work, and why the proposed constitutional amendment is wholly unnecessary.

For many years, the proponents of this amendment have pointed to one particular ruling to support their cause. On June 26, 1996, during the first Oklahoma City bombing case, the Timothy McVeigh case, the trial judge, Chief Judge Richard Matsch, issued what I and many other Senators thought was a bizarre pretrial order. He held that any victim who wanted to testify at the penalty hearing, assuming McVeigh was convicted, would be excluded from all pretrial proceedings and from the trial. Judge Matsch's reasoning, as I understand it, was that victims' testimony at sentencing would be improperly influenced by their witnessing the trial.

The U.S. Attorneys who were prosecuting the case promptly consulted with the victims and concluded that Judge Matsch's ruling failed to treat the victims fairly, so they moved for reconsideration. But Judge Matsch denied the U.S. Attorneys' motion and reaffirmed his ruling on October 4, 1996.

As I mentioned, I, like the prosecutors, thought that Judge Matsch's order was wrong. I did not believe that anything in the Constitution or in Federal law required victims to make the painful choice between watching a trial and providing victim impact testimony.

The issue during the trial phase is whether the defendant committed the crime. The issue on which victims testify at the sentencing is what the effects of the crime have been. There is nothing that I know of, in common sense or in American law, that suggests that allowing a mother who has lost her child to hear the evidence of how her child was murdered would somehow taint the mother's testimony about the devastating effects of the murder on her and her family's lives.

So on March 14, 1997, I joined Senator NICKLES, Senator INHOFE, Senator HATCH, and Senator GRASSLEY in introducing the Victims Rights Clarification Act of 1997. This legislation clarified that a court shall not exclude a victim from witnessing a trial on the basis that the victim may, during the sentencing phase of the proceedings, make a statement or present information in relation to the sentence. This legislation also specified that a court shall not prohibit a victim from making a statement or presenting information in relation to the sentence during the sentencing phase of the proceedings solely because the victim has witnessed the trial.

In addition, and just as importantly, the Victims Rights Clarification Act preserved a judge's discretion to exclude a victim's testimony during the sentencing phase if the victim's testimony would unfairly prejudice the jury. It allowed for a judge to exclude a victim if he found a basis—independent of the sole fact that the victim witnessed the trial—that the victim's testimony during the sentencing phase would create unfair prejudice.

My cosponsors and I worked together to pass the Victims Rights Clarification Act within a timeframe that could benefit the victims in the Oklahoma City bombing case. The Senate passed this bill by unanimous consent on March 18, 1997, and President Clinton signed it into law the very next day. I am very proud of how we worked together, Republicans and Democrats, the Senate and the House, the Congress and the President, to pass the Victims Rights Clarification Act in record time, and I believe that its speedy passage speaks volumes about our shared commitment to victims' rights.

More important for this debate than how fast Congress acted, however, is how fast Judge Matsch responded. One week after the President signed the Victims Rights Clarification Act, Judge Matsch reversed his pretrial order and permitted victims to watch the trial, even if they were potential penalty phase victim impact witnesses. In other words, Judge Matsch did what the statute told him to do. Not one victim was prevented from testifying at Timothy McVeigh's sentencing hearing on the ground that he or she had observed part of the trial.

Senator KYL has said that the statute did not work; he suggested that we are now stuck with a judicial precedent that somehow prevents victims from sitting in the courtroom during a trial. Sen. FEINSTEIN has said that the Victim Rights Clarification Act is ''for practical purposes a nullity.'' It's just not true.

Beth Wilkinson, a member of the Government team that successfully prosecuted Timothy McVeigh and Terry Nichols, told our Committee how well the Victim Rights Clarification Act worked. I can do no better than to quote her words, because she was there, in the trenches; she devoted 2½ years of her life to obtaining justice for the victims of the Oklahoma City bombing. Here is what Ms. Wilkinson, one of the lead prosecutors in the case, told the Judiciary Committee:

> What happened in [the McVeigh] case was once you all passed the statute, the judge said that the victims could sit in, but they may have to undergo a voir dire process to determine . . . whether their testimony would have been impacted . . . I am proud to report to you that every single one of those witnesses who decided to sit through the trial . . . survived the voir dire, and not only survived, but I think changed the judge's opinion on the idea that any victim impact testimony would be changed by sitting through the trial. . . . [T]he witnesses underwent the voir dire and testified during the penalty phase for Mr. McVeigh.

Ms. Wilkinson went on to say:

> It worked in that case, but it worked even better in the next case. Just 3 months later when we tried the case against Terry Nichols, every single victim who wanted to watch the trial either in Denver or through closed-circuit television proceedings that were provided also by statute by this Congress, were permitted to sit and watch the trial and testify against Mr. Nichols in the penalty phase.
>
> That operated smoothly. The defendant had no objection, and the judge allowed every one of those witnesses to testify without even undergoing a voir dire process in the second trial. . . .
>
> I think that proves . . . [that] you do not want to amend the Constitution if there are

some statutory alternatives. And I saw the Victim Rights Clarification Act work. Within a year of passage, it had been tried two times and I believe by the second time it had operated smoothly and rectified an interest and a right that I think the victims were entitled to that had not been recognized until passage of that statute.

Senator FEINSTEIN said that Judge Matsch ''ignored'' the Victim Rights Clarification Act. But Ms. Wilkinson was there, and she says the judge did not ignore the statute, he did apply it, and that any initial uncertainty about the constitutionality of the statute was resolved in the McVeigh case, and not a problem in the second trial, against Terry Nichols. In addition, I am unaware of any subsequent case in which the Victim Rights Clarification Act has been less than fully effective.

I hope this lays to rest, once and for all, the repeated assertions of the proponents of this constitutional amendment that the Oklahoma City bombing cases proved that victims cannot be protected by ordinary legislation. There was one very unfortunate ruling that went against victims' rights at the start of the McVeigh case. That ruling was promptly opposed by prosecutors, swiftly corrected by Congress in the Victims Rights Clarification Act, and duly reversed by the trial judge himself before the trial began. The Victims Rights Clarification Act is working.

After Ms. Wilkinson testified before the Committee, I asked one of our other witnesses, Professor Paul Cassell, to comment on what Ms. Wilkinson had said about the Victims Rights Clarification Act. Professor Cassell represented some of the victims of the Oklahoma City bombing, and he advised Senators in connection with the formulation of that legislation.

Knowing that Professor Cassell is now one of the leading advocates of the proposed victims' rights amendment, I wanted to give him an opportunity to explain what he thought the proposed constitutional amendment would have provided the Oklahoma City bombing victims that the Victims Rights Clarification Act did not provide.

The only thing that Professor Cassell could think of was that the amendment would have given the victims ''standing''. In other words, in addition to enabling the victims to watch the trial and testify at the sentencing hearing, which the statute admittedly accomplished, the amendment would have entitled Paul Cassell and other lawyers for the victims, and the victims themselves, to demand additional hearings and to argue before Judge Matsch.

If standing is the only thing that was missing in the Victims Rights Clarification Act, then we have to ask ourselves two things. First, assuming that we want to provide standing for victims and their lawyers to make legal arguments as well as to testify in criminal cases, do we need a constitutional amendment to achieve that? None of the sponsors of the constitutional amendment have explained why that could not be done by statute.

Second, and more importantly, do we really want to give standing to victims and their lawyers, and allow them to raise claims and challenge rulings during the course of a criminal case?

Remember, we are not arguing about whether victims are entitled to attend the trial, whether they are entitled to testify, or whether they are entitled to restitution. Of course they should be, and they already are in most States. The ''standing'' question is a procedural one, about whether victims' rights and the interests of an efficient and effective criminal justice system are best protected by allowing prosecutors to run the prosecution, or by bringing in teams of plaintiffs' lawyers—or, I guess, they would now be called victims' lawyers—to argue over how the case should be conducted.

I am committed to giving victims real and enforceable rights. But I am not convinced that prosecutors are so incapable of protecting those rights, once we make them clear, that every victim needs to get their own trial lawyer. Indeed, from my own experience as a prosecutor, and from what I have seen of Ms. Wilkinson and the dedicated team that prosecuted the Oklahoma City cases, I am confident that prosecutors have victims' interests at heart.

Senators KYL and FEINSTEIN mentioned that some of the victims of the Oklahoma City tragedy support their proposed constitutional amendment. I think the point needs to be made that some of those victims do not support the amendment. They were satisfied with the way that Ms. Wilkinson and her colleagues handled the case, and pleased and relieved with the results they achieved.

One of the victims even testified before Congress in opposition to this proposed amendment. Emmett E. Walsh, who lost his daughter in the bombing, told the House Judiciary Committee the following:

> I know that many people believe that a constitutional amendment is something that crime victims want. However, I want you to know that as a crime victim, I do not want the Constitution amended. . . . I believe that if this constitutional amendment had been in place it would have harmed, rather than helped, the prosecution of the Oklahoma City Bombing case.

In the Timothy McVeigh case, the trial judge got the law of victims' rights wrong in an initial pretrial ruling. Through the normal legislative process, we fixed the problem before the trial began. What that history shows is not that statutes don't work; it shows precisely why they do. If we got the law of victims' rights wrong in a constitutional amendment, or the Supreme Court interpreted a constitutional victims' rights amendment wrongly, a solution would not come so swiftly. That is why Congress should be slow to constitutionalize new procedural rights that can be provided by statute.

Mrs. MURRAY. Mr. President, I rise today to express my strong support of the rights of crime victims and of all Americans. In the last few years, Congress has passed laws to increase the rights of crime victims and their families. Congress has provided crime victims the right to attend and to speak at court proceedings, the right to be notified of a criminal's parole or escape, and the right to receive restitution.

Congress has been able to expand victims' rights by doing what we do often—pass laws. Today, we are asked to do something we do very rarely—to amend the United States Constitution.

I support crime victims. I want to expand their protections, but I don't believe that amending the Constitution is the best way to do it. As the examples I mentioned have shown, we can expand and clarify victims' rights significantly—without tampering with the Constitution. A constitutional amendment is not necessary to help crime victims.

Any time we think about changing the Constitution, we must consider the words of James Madison, its principal author. Madison explained that amending the Constitution should only be reserved for ''certain great and extraordinary occasions,'' when no other alternatives are available.

Despite all the changes in our country over the last 213 years, we've only amended the Constitution on 27 occasions, 10 of which were the Bill of Rights. Most of these constitutional amendments were passed to reflect fundamental changes in the attitudes of Americans such as ensuring the rights of minorities and the right of women to vote.

This is not a ''great and extraordinary occasion.'' In the last 20 years, we in Congress and the states have done a good job of ensuring better and more comprehensive rights and services for crime victims. There are more than 30,000 laws nationwide that define and protect victims' rights. There are tens of thousands of organizations that provide assistance to people who have been victims of crime.

Thirty-two States have passed constitutional amendments in their own state constitutions to protect the rights of crime victims. My own home State of Washington has both laws on the books and provisions in our state constitution that provide crime victims and their families the right to attend trial, the right to be informed of court proceedings, the right to make a statement at sentencing or any proceeding where the defendant's release is considered, and the right to enter an order of restitution. There is no evidence that the laws in my state and others like it are failing to protect victims.

Not only is this not a ''great and extraordinary occasion,'' but this amendment could actually erode the rights of Americans rather than expand on them. Defendants in criminal proceedings in this country are presumed to be innocent. This amendment would

give victims and their families the right to be heard at all critical stages of the trial. This amendment could allow victims to sway the trial against a defendant before they have been convicted, thus seriously compromising the presumption of innocence.

The amendment could also compromise a defendant's right to a fair trial. Judges have enormous discretion in determining which witnesses should be able to attend the proceedings in their courtroom. Many times, a witness' testimony could be compromised if that witness hears the testimony of others. For example, if the victim is allowed to hear the testimony of the defendant, the victim could change his or her testimony based on what the defendant said. Even worse, if a victim attends the testimony of the accused, the trauma or intimidation they experience could damage their subsequent testimony.

The judge should have discretion over who can be excluded from the courtroom at particular stages of the trial to ensure that the defendant has a fair trial. This amendment would give victims the right to attend the entire criminal trial regardless of whether the judge believes their presence could taint the fairness of the proceeding. Judges help ensure that defendants have a fair trial. This amendment would jeopardize that protection.

The amendment could also affect defendants and the prosecutors' ability to present their case. The amendment would give victims a right to intervene and assert a constitutional right for a faster disposition of the matter. In many cases, the defendants and prosecutors need time to develop their arguments. This amendment could force a premature conclusion to cases that may require additional deliberation.

In some cases, the victims are actually defendants. This happens many times in domestic violence cases when the abused victims finally defend themselves from their attacker. In these cases, the abuser could actually be granted special rights that could place a domestic violence victim at greater risk. Why should the abuser get special rights? This is one reason why many domestic violence victims' advocates oppose this amendment.

Finally, the proposed victims' rights amendment could hurt effective prosecutions and would place enormous burdens on the criminal justice system. The amendment gives victims the right to be notified and to comment on negotiated pleas or sentences. More than 90 percent of all criminal cases do not go to trial but are resolved through negotiation. Giving victims a right to obstruct plea agreements could backfire by requiring prosecutors to disclose weaknesses in their case. It could also compromise the ability of a prosecutor to gain the cooperation of one defendant to improve the chance of convincing others. In the end, guilty defendants could better present their case if they are privy to strategy and details of the prosecutions' case. The rights of notification could also result in large burdens on the criminal justice system, compromising resources to effectively prosecute criminals.

An amendment to the Constitution is not the right approach. We should continue to do the things that have worked in the past without taking this drastic step. Current State and Federal laws give victims extensive rights at trial.

For these reasons, I have cosponsored a proposal by Senators LEAHY and KENNEDY. This statutory change would give crime victims the right to be heard and be notified of proceedings and the right to a speedy trial. It would also enhance participatory rights at trial and do other things to give victims and their families a greater ability to get involved in the prosecution of the criminals that harmed them. All of these rights would be subject to the judge's discretion. We in Congress should not be in the business of telling judges how to balance the rights of the accused and those of the victims.

I urge my colleagues to support the Leahy/Kennedy compromise and reject the constitutional amendment that may do more to compromise the rights of Americans rather than expand them.

Before, I close, I want to make one final point. If we really want to do something for crime victims, we should reauthorize the Violence Against Women Act, VAWA, which expires this year. If we do not act, we jeopardize funding and we miss a vital opportunity to strengthen this historic act.

Even using conservative estimates, one million women every year are victims of violent crimes by an intimate partner. We know that one in three women can expect to be the victim of a violent crime at some point in her life. The chance of being victimized by an intimate partner is ten times greater for a woman than for a man. Domestic violence is statistically consistent across racial and ethnic lines—it does not discriminate based on race or economic status. Eighty-eight percent of victims of domestic violence fatalities had a documented history of physical abuse and 44 percent of victims of intimate homicide had prior threats by the killer to kill the victim or self. These are frightening statistics and show us that violence against women is a real threat. How will a Constitutional amendment prevent these crimes or even provide safety and support to the victims?

VAWA changed the entire culture of violence against women and empowered communities to respond to this devastating plague. Since 1995 we have provided close to $1.8 billion to address violence against women. VAWA funding supports well over 1,000 battered women shelters in this country. The National Domestic Violence Hotline enacted as part of VAWA, fielded 73,540 calls in 1996 alone, and in 1998 the hotline fielded 109,339 calls. We have many success stories and we know what works.

There is no reason to delay reauthorization. We still have so much more to do. We know the demand for services and assistance for victims is only increasing. As a result of more outreach and education, women no longer feel trapped in violent homes or relationships. Domestic violence is no longer simply a family problem but a public health threat to the community. While we have seen an explosion in funding for battered women's shelters, we also know that hundreds of women and children are still turned away from overcrowded shelters. We have heard reports that individual states had to turn away anywhere from 5,000 to 15,000 women and children in just one year. I know that limited safe shelter space is a growing problem in Washington state. What can we do for these victims? What rights do they have? The reauthorized legislation, S. 51, provides much greater hope to these victims than even federal and state laws to protect the rights of victims in the court process. The bill currently has 47 cosponsors.

If we are concerned about victims and the rights of victims we should be acting to reauthorize and strengthen VAWA.

SUPPORTING THE CAPITOL HILL POLICE OFFICERS

Mr. WELLSTONE. Mr. President, I have decided now to start speaking about this subject again on the floor of the Senate. I think I will devote only 10 minutes a week on it. But I am going to do it every week. I must say, though, if we continue to operate the way we have been operating, I might as well speak about it much more because while we are dealing with a very serious question now, we are not about the business of legislating. I call on the majority leader to start getting legislation out and going at it on amendments. Let's bring some vitality back to the Senate.

I do want to, one more time, say to my colleagues that most all of us attended a service for Officers Chestnut and Gibson. These were two police officers who were murdered. They were murdered in the line of duty. They were protecting us. They were protecting the public.

I say to my colleagues one more time, I believe Senator BENNETT and Senator FEINSTEIN on the Senate side are very supportive of doing whatever they can. But up to date, including today again, we have stations here where you have one police officer for lots of people coming through. That police officer is not safe. That police officer cannot do his or her job.

We made a commitment to do everything we possibly could to make sure we would never experience again the loss of a police officer's life. We can never be 100 percent sure, but we ought to live up to the commitment to have two police officers at every station.

I say this on the floor of the Senate—and I will pick up the pace of this later—if we cannot do that, then we ought to start shutting these doors, really. If we cannot have two officers per station and give them the support they deserve—I am talking about appropriations—then we basically ought to just close the doors.

I think on the Senate side we have bipartisan support. I do not know what is happening on the House side. I must say, today I am pessimistic, in terms of what I have heard, that we might even be looking at cuts. But whatever we need to do, whether it be paying overtime or hiring additional officers, we need to do it so we do not lose any lives and we give the Capitol Hill police officers the support that we promised to give them.

I say to my colleagues that I am worried that on the House side, in particular, we are not going to get the support. I think it should be bipartisan. I do not think anybody should have any question about this. Everybody says they are for police officers, and everybody says they are for protection and safety, and everybody says they will never forget the two fine officers whose lives were lost, and yet when it comes to digging in our pockets and doing it through appropriations, we are not there. Something is amiss.

I will try to keep bringing this up every week and hopefully we can get this work done.

I thank my colleagues and yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I will be very brief because my good friend, the distinguished Senator from Florida, is on the floor. I know he wishes to speak as in morning business. I do not want to hold him up on that.

Mr. President, I ask unanimous consent to proceed as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

TREATMENT OF FEDERAL LAW ENFORCEMENT OFFICERS

Mr. LEAHY. Mr. President, I have to take issue with the extreme rhetoric that some are using to attack our Federal law enforcement officers who helped return Elian Gonzalez to his father.

For example, one of the Republican leaders in the House of Representatives was quoted as calling the officers of the U.S. Immigration and Naturalization Service, the U.S. Border Patrol, and the U.S. Marshals Service: ''jack-booted thugs.'' The mayor of New York City, a man who is seeking election to this body, called these dedicated public servants ''storm troopers.''

I know both men who made these remarks. I hope they will reconsider what they said because such intemperate and highly charged rhetoric only serves to degrade Federal law enforcement officers in the eyes of the public. That is something none of us should want to see happen.

Let none of us in the Congress, or those who want to serve in Congress, contribute to an atmosphere of disrespect for law enforcement officers. No matter what one's opinion of the law enforcement action in south Florida, we should all agree that these law enforcement officers were following orders, doing what they were trained to do, and putting their lives on the line, something they do day after day after day.

Let us treat law enforcement officers with the respect that is essential to their preserving the peace and protecting the public. I have said many times on the floor of this body that the 8 years I served in law enforcement are among the proudest and most satisfying times of my years in public service.

Thus, this harsh rhetoric bothers me even more. I do not know if I am bothered more as a Senator or as a former law enforcement official. But I am reminded of similar harsh rhetoric used by the National Rifle Association. In April 1995, the NRA sent a fundraising letter to members calling Federal law enforcement officers ''jack-booted thugs'' who wear ''Nazi bucket helmets and black storm trooper uniforms.''

Apparently, the vice president of the NRA was referring to Federal Bureau of Investigation and Bureau of Alcohol, Tobacco and Firearms agents involved in law enforcement actions in Idaho and Texas.

President George Bush, a man who is a friend of ours on both sides of this aisle, was correctly outraged by this NRA rhetoric, and he resigned from the NRA in protest. At the time in 1995, President Bush wrote to the NRA:

> Your broadside against federal agents deeply offends my own sense of decency and honor. . . . It indirectly slanders a wide array of government law enforcement officials, who are out there, day and night, laying their lives on the line for all of us.

I praised President Bush in 1995 for his actions, and I praise him again today.

President Bush was right. This harsh rhetoric of calling Federal law enforcement officers ''jack-booted thugs'' and ''storm troopers'' should offend our sense of decency and honor. It is highly offensive. It does not belong in any public debate on the reunion of Elian Gonzalez with his father.

We are fortunate to have dedicated women and men throughout Federal law enforcement in this country. They do a tremendous job under difficult circumstances, oftentimes at the risk of their lives and, unfortunately, too often losing their lives. They are examples of the hard-working public servants who make up the Federal Government, who are too often maligned and unfairly disparaged. It is unfortunate that it takes high-profile incidents to put a human face on Federal law enforcement officials, to remind everyone that these are people with children and parents and friends, spouses, brothers and sisters. They deserve our respect. They don't deserve our personal insults.

In countless incidents across the country every day, we ask Federal law enforcement officers who are sworn to protect the public and enforce the law to place themselves in danger, in danger none of us has to face. These law enforcement officers deserve our thanks and our respect. They do not deserve to be called jack-booted thugs and storm troopers. I proudly join the Federal Law Enforcement Officers Association in condemning these insults against our Nation's law enforcement officers. The public officials who used this harsh rhetoric owe our Federal law enforcement officers an apology.

I also want to note the misplaced swiftness in those calling to investigate the law enforcement action needed to reunite Elian Gonzalez with his father. The same congressional leaders who broke speed records calling Attorney General Reno to Capitol Hill and now call for Senate Judiciary Committee hearings to investigate this law enforcement action are the same congressional leaders who stalled the juvenile justice conference for nearly a year. With just a word, these congressional leaders can order politically charged meetings and hearings, though they remain silent when it comes to moving a comprehensive youth crime bill toward final passage into law. Unfortunately, we are in a Congress that is quick to investigate but slow to actually legislate a solution that could improve the quality of our constituents' lives. I think this is a misplaced priority on politics over commonsense legislation. I hope we will calm down the rhetoric.

There are those who feel strongly about where Elian Gonzalez should be, either with relatives in Miami or with his father. I am one who has stated from the beginning that the little boy should be with his father. The fact is, he is with his father. I hope we can all just let them be alone, let them reestablish the bonds that a father and child naturally have. Let him enjoy the company of his new brother. Let him be out of the TV cameras. Let's stop seeing this little boy paraded out several times a day before crowds, even adoring crowds. Let him be a normal little 6-year-old. Let him hug his father. Let his father hug him back. Let them read stories. Let them do things together.

I ask his family, his relatives in Miami—I have to assume they love him—let them have this time alone. Back away. Don't let your own egos or feelings get in the way of what is best for this little child. Let him be with his father. There will be a time where all of them will be together again. Right now, this little boy needs his dad.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

Mr. MACK. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE RAID IN MIAMI

Mr. MACK. Mr. President, in the early morning hours of Holy Saturday, a little piece of America died. America's shining beacon of freedom faded in the Florida sky as many of us grieved over the astounding actions of the United States Government. This administration betrayed America's past and joined history's inglorious list of governments that have chosen to use excessive force against its own law-abiding citizens.

Our founding fathers believed in a Government of, for, and by, the people, a Government designed to serve and benefit the people, not to serve and benefit the needs of Government, and certainly not to substitute brute force for the rule of law. These are reminiscent of the tactics used by tyrants and despots. The decisions by this administration that led to the events of last Saturday will be remembered as a day of shame in our American history.

My comments today are not directed toward the law enforcement officers who carried out the operation; I understand they are charged with a duty and must follow the directives of the Attorney General and the President of the United States. My comments today are not directed at the ultimate disposition of Elian's residency or custody, and they are not intended to be partisan or political, but they do go directly to the heart of who we are as a Nation and what we expect of our Government.

As most people know, the Elian Gonzalez matter is pending in Federal court. Just last Wednesday, the Eleventh Circuit Court of Appeals ordered that Elian Gonzalez must remain in the United States during the review of his Federal court case. The opinion of the court suggests the INS and the Department of Justice were wrong in not granting Elian an asylum hearing. In the final footnote of the opinion, the court encouraged the parties to avail themselves voluntarily of the Eleventh Circuit's mediation services. The court believed that mediation was an appropriate avenue to resolve this heart gripping situation.

The Attorney General did not listen to the court. She was obsessed with reuniting Elian with his father at any cost. Perhaps she would have been wise to listen to the words of Daniel Webster: ''Liberty exists in proportion to wholesome restraint.'' Perhaps she should have listened to her own words: ''I'm trying to work through an extraordinary human tragedy. And the importance of working through it is that we do so in good faith, without violence, without having to cause further disruption to the little boy.'' This statement was made nine days before the raid.

The night before the raid, mediation between the Department of Justice, the Miami family and Juan Miguel Gonzalez had gone on all night and into the wee hours of Saturday morning. Even as the negotiations continued on the telephone with all parties, agents of the administration dressed in fatigues and masks exploded into the home of Lazaro Gonzalez with machine guns drawn—and one machine gun that was pointed dramatically in the face of a screaming child.

The Government held all the power, and the Government used intimidation to force a family, a loving caring family, into a corner. Remember this is the family originally selected by the Attorney General to care for Elian.

The administration offered ultimatums when fair mediation was needed. This administration resorted to the power of a machine gun to intimidate an American family. What possible benefit could come from this act?

Tactics such as these deserve a full explanation. Why would the Department of Justice stage a raid when mediator Aaron Podhurst stated that a deal between the parties was ''minutes to an hour away''? Why would they be so impatient with a solution so near? The Attorney General said that they had a window during which to conduct the raid of Saturday through Monday. Why could they not have waited for negotiations to play out.

What credible information existed to suggest this level of force needed to be used?

Another question that deserves fuller explanation speaks to the impact of the raid on the boy. Wouldn't any psychologist or psychiatrist who actually examined the child say this action would further traumatize the boy? But sadly, the INS team of experts never did examine the boy to make an informed evaluation.

How could such tactics possibly be in the best interests of a child who has suffered so much? What right did this administration have to add this trauma to the terrible loss Elian has already suffered? And why did he have to suffer at the hands of the people who are supposed to defend the rule of law, the INS, the DoJ, and the President of the United States.

Let's think for a moment about the decision the father and the Justice Department made in putting Elian's life at risk with the plans for the pre-dawn raid. I have never questioned the father's love for the boy, but I cannot imagine any father would choose to put his son's life at risk a second time. But it is not an unloving father who put his son in harm's way-the father is as much a victim as Elian in many ways. The father had a simple choice: travel to a safe house in Miami and have Elian voluntarily transferred into his custody or insist on remaining in Washington and have the U.S. government seize his son in a violent, dangerous raid. Just as it wasn't the father's decision not to come to his boy's side for the first four months of this ordeal, it was not his decision to remain in Washington, forcing a raid at gunpoint. Castro would not allow the father to travel then and he would not allow him to travel last weekend.

President Clinton promised my colleague Senator GRAHAM that Elian would not be seized in the middle of the night, and now we must ask again, why did he promise one thing and yet do another?

Elian deserves access to all of his legal options, Elian deserves an asylum hearing, and he deserves the protection of U.S. law. Yet that is for another day. The use of force must be dealt with today. Does the end justify the means? Will these means ever be justified?

There have been accusations of playing politics with this issue.

But perhaps we ought to recognize what several of the Attorney General's long-time supporters have said. The four mediators from Miami that were involved in the negotiations with Janet Reno have clearly challenged the administration's characterization of the events of last Saturday. They said they were close to an agreement and felt confident a peaceful solution could have been reached.

We cannot simply sweep these issues away and dispense of them in the name of politics. This is a long, sad story and I'm sure many would wish it would simply fade away. But if we accept and commend the actions of our government for acting hastily in choosing excessive force over peaceful mediation, we have traveled down a very troubling road. We dare not condone such use of force to settle legal disputes. This strikes at the very heart of the balance of power and the integrity of our judicial process.

This child and no child should face the intimidation and trauma of an automatic weapon in his face—especially when perpetrated by the American government—a government that has always stood for freedom and human rights throughout the world. As a father and grandfather, I am heartbroken for the frightened, vulnerable child in that photograph. My hope is that no other administration official utter the words, ''I am proud of what we did'' and instead express regret and sorrow for the trauma and pain suffered by the entire Gonzalez family.

What happened saddens me as an American, a father, and a Senator. Mr. President, last Saturday morning, a little bit of America died in that raid and I hope we never again dim the light of freedom for those who look to us for hope. I yield the floor.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MACK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. MACK. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business, with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

HONORING THE ARMENIAN VICTIMS OF THE OTTOMAN EMPIRE

Mr. FEINGOLD. Mr. President, I rise today to honor the memory of the 1.5 million ethnic Armenians that were systematically murdered at the hands of the Ottoman Empire from 1915–1923. The 85th anniversary of the beginning of this brutal annihilation was marked on April 24.

During this nine year period, a total of 1.75 million ethnic Armenians were either slaughtered or forced to flee their homes to escape the certain death that awaited them at the hands of a government-sanctioned force determined to extinguish their very existence. As a result, fewer than 80,000 ethnic Armenians remain in what is present-day Turkey.

I have come to the floor to commemorate this horrific chapter in human history each year I have been a member of this body, both to honor those who died and to remind the American people of the chilling capacity for violence that, unfortunately, still exists in the world. It is all too clear from the current ethnically and religiously motivated conflicts in such places as the Balkans, Sierra Leone, and Sudan that we have not learned the lessons of the past.

Recently, the Senate Committee on Foreign Relations, of which I am a member, had the honor of hearing the testimony of one of the most well-known survivors of the Holocaust, Dr. Elie Wiesel. His eloquent words remind us that the same capacity for hate that drove the Ottoman Empire to murder ethnic Armenians and the Nazis to murder Jews is still present in the world. At the hearing, Dr. Wiesel said, ''violence is the language of those who can no longer express themselves with words.''

This hate manifests itself in many ways, from extreme nationalism to so-called ''ethnic cleansing'' to violations of the basic human rights of ethnic and religious minorities. And, in some cases, those filled with hate attempt to mimic the horrific events and beliefs of times past. For example, I am deeply disturbed by the apparent resurgence of right wing and anti-Semitic movements in Europe.

Dr. Wiesel also said, ''to hate is to deny the other person's humanity.'' Today, let us take a moment to remember the Armenians who died at the hands of the Ottoman Empire, and all of the other innocent people who have lost their lives in the course of human history simply for who they were. Our humanity may depend on it.

Mr. REED. Mr. President, I rise to join with Armenians throughout the United States, in Armenia, and around the world in commemorating the 85th anniversary of the Armenian Genocide.

On the night of April 24, 1915 in Constantinople, nationalist forces of the Ottoman Empire rounded up more than 200 Armenian religious, political, and intellectual leaders and murdered them in a remote countryside location. This atrocity began an eight year campaign of tyranny that would affect the lives of every Armenian in Asia Minor.

Armenian men, women, and children of all ages fell victim to murder, rape, torture, and starvation. By 1923, an estimated 1.5 million Armenians had been systematically murdered and another 500,000 were exiled. With the world community consumed in the events of World War I and the subsequent period of recovery, the plight of the Armenian people went unanswered.

Today, this tragic episode in history serves to unite the Armenian people as they struggle to build an independent nation committed to democracy and peace in the Caucasus region. Despite the unresolved conflict in Nagorno-Karabakh, the ongoing blockade by Turkey and the violent attack on the Armenian Parliament last October, Armenians continue to build on these principles. It is this indomitable spirit that has kept the hope of Armenians alive through centuries of persecution.

The madness and cruelty which led to the tragic events of the Armenian genocide are not forgotten. Last year, when hundreds fled their homes in Kosovo, fearing for their lives, America and its NATO allies reacted quickly and decisively. We, as a nation, must continue to respond to such acts of oppression so that the deaths of all victims of hatred and prejudice are not in vain.

Therefore, on the 85th anniversary of the terrible tragedy of the Armenian genocide we remember the past and rededicate ourselves to supporting Armenia as it looks to the future.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Tuesday, April 25, 2000, the Federal debt stood at $5,714,809,510,973.78 (Five trillion, seven hundred fourteen billion, eight hundred nine million, five hundred ten thousand, nine hundred seventy-three dollars and seventy-eight cents).

Five years ago, April 25, 1995, the Federal debt stood at $4,842,768,000,000 (Four trillion, eight hundred forty-two billion, seven hundred sixty-eight million).

Ten years ago, April 25, 1990, the Federal debt stood at $3,059,578,000,000 (Three trillion, fifty-nine billion, five hundred seventy-eight million).

Fifteen years ago, April 25, 1985, the Federal debt stood at $1,731,602,000,000 (One trillion, seven hundred thirty-one billion, six hundred two million).

Twenty-five years ago, April 25, 1975, the Federal debt stood at $514,706,000,000 (Five hundred fourteen billion, seven hundred six million) which reflects a debt increase of more than $5 trillion—$5,200,103,510,973.78 (Five trillion, two hundred billion, one hundred three million, five hundred ten thousand, nine hundred seventy-three dollars and seventy-eight cents) during the past 25 years.

SENATE QUARTERLY MAIL COSTS

Mr. MCCONNELL. Mr. President, in accordance with section 318 of Public Law 101–520 as amended by Public Law 103–283, I am submitting the frank mail allocations made to each Senator from the appropriation for official mail expenses and a summary tabulation of Senate mass mail costs for the first quarter of FY2000 to be printed in the RECORD. The first quarter of FY2000 covers the period of October 1, 1999, through December 31, 1999. The official mail allocations are available for franked mail costs, as stipulated in Public Law 106–57, the Legislative Branch Appropriations Act of 2000.

SENATE QUARTERLY MASS MAIL VOLUMES AND COSTS FOR THE QUARTER ENDING DEC. 31, 1999

Senators	FY2000 official mail allocation	Total pieces	Pieces per capita	Total cost	Cost per capita
Abraham	$114,766	0	0	$0.00	0
Akaka	35,277	0	0	0.00	0
Allard	65,146	0	0	0.00	0
Ashcroft	79,102	0	0	0.00	0
Baucus	34,375	2,440	0.00305	1,950.86	$0.00244
Bayh	80,377	0	0	0.00	0
Bennett	42,413	0	0	0.00	0
Biden	32,277	0	0	0.00	0
Bingaman	42,547	0	0	0.00	0
Bond	79,102	0	0	0.00	0
Boxer	305,476	0	0	0.00	0
Breaux	66,941	0	0	0.00	0
Brownback	50,118	0	0	0.00	0
Bryan	43,209	0	0	0.00	0
Bunning	63,969	0	0	0.00	0

SENATE QUARTERLY MASS MAIL VOLUMES AND COSTS FOR THE QUARTER ENDING DEC. 31, 1999—Continued

Senators	FY2000 official mail allocation	Total pieces	Pieces per capita	Total cost	Cost per capita
Burns	34,375	0	0	0.00	0
Byrd	43,239	0	0	0.00	0
Campbell	65,146	0	0	0.00	0
Chafee, Lincoln	34,703	0	0	0.00	0
Cleland	97,682	0	0	0.00	0
Cochran	51,320	0	0	0.00	0
Collins	38,329	0	0	0.00	0
Conrad	31,320	0	0	0.00	0
Coverdell	97,682	0	0	0.00	0
Craig	36,491	0	0	0.00	0
Crapo	36,491	0	0	0.00	0
Daschle	32,185	0	0	0.00	0
DeWine	131,970	0	0	0.00	0
Dodd	56,424	0	0	0.00	0
Domenici	42,547	0	0	0.00	0
Dorgan	31,320	0	0	0.00	0
Durbin	130,125	0	0	0.00	0
Edwards	103.736	508	0.00008	408.05	0.00006
Enzi	30,044	0	0	0.00	0
Feingold	74,483	0	0	0.00	0
Feinstein	305,476	0	0	0.00	0
Fitzgerald	130,125	688	0.00006	225.10	0.00002
Frist	78,239	0	0	0.00	0
Gorton	81,115	0	0	0.00	0
Graham	185,464	0	0	0.00	0
Gramm	205,051	1,421	0.00008	309.89	0.00002
Grams	69,241	57,346	0.01311	31,583.87	0.00722
Grassley	52,904	0	0	0.00	0
Gregg	36,828	0	0	0.00	0
Hagel	40,964	0	0	0.00	0
Harkin	52,904	0	0	0.00	0
Hatch	42,413	0	0	0.00	0
Helms	103,736	0	0	0.00	0
Hollings	62,273	0	0	0.00	0
Hutchinson	51,203	0	0	0.00	0
Hutchison	205,051	0	0	0.00	0
Inhofe	58,884	0	0	0.00	0
Inouye	35,277	0	0	0.00	0
Jeffords	31,251	33,878	0.06020	10,220.91	0.01816
Johnson	32,185	0	0	0.00	0
Kennedy	82,915	802	0.00013	272.64	0.00005
Kerrey	40,964	0	0	0.00	0
Kerry	82,915	0	0	0.00	0
Kohl	74,483	0	0	0.00	0
Kyl	71,855	0	0	0.00	0
Landrieu	66,941	0	0	0.00	0
Lautenberg	97,508	0	0	0.00	0
Leahy	31,251	5,411	0.00962	1,456.55	0.00259
Levin	114,766	3,013	0.00032	608.87	0.00007
Lieberman	56,424	703	0.00021	655.20	0.00020
Lincoln	51,203	1,317	0.00056	1,236.67	0.00053
Lott	51,320	0	0	0.00	0
Lugar	80,377	0	0	0.00	0
Mack	185,464	0	0	0.00	0
McCain	71,855	0	0	0.00	0
McConnell	63,969	0	0	0.00	0
Mikulski	73,160	0	0	0.00	0
Moynihan	184,012	0	0	0.00	0
Murkowski	31,184	0	0	0.00	0
Murray	81,115	0	0	0.00	0
Nickles	58,884	0	0	0.00	0
Reed	34,703	0	0	0.00	0
Reid	43,209	1,097	0.00091	898.20	0.00075
Robb	89,627	0	0	0.00	0
Roberts	50,118	0	0	0.00	0
Rockfeller	43,239	0	0	0.00	0
Roth	32,277	0	0	0.00	0
Santorum	139,016	0	0	0.00	0
Sarbanes	73,160	0	0	0.00	0
Schumer	184,012	0	0	0.00	0
Sessions	68,176	0	0	0.00	0
Shelby	68,176	0	0	0.00	0
Smith, Gordon	58,557	0	0	0.00	0
Smith, Robert	36,828	0	0	0.00	0
Snowe	38,329	0	0	0.00	0
Specter	139,016	0	0	0.00	0
Stevens	31,184	0	0	0.00	0
Thomas	30,044	0	0	0.00	0
Thompson	78,239	0	0	0.00	0
Thurmond	62,273	0	0	0.00	0
Torricelli	97,508	2,602	0.00034	1,387.69	0.00018
Voinovich	131,970	0	0	0.00	0
Warner	89,627	0	0	0.00	0
Wellstone	69,241	0	0	0.00	0
Wyden	58,557	0	0	0.00	0
Totals	7,594,942	111,226	0.08868	51,214,50	0.03227

ADDITIONAL STATEMENTS

IN RECOGNITION OF THE 100TH ANNIVERSARY OF THE LEGEND OF CASEY JONES

• Mr. THOMPSON. Mr. President, I rise today to acknowledge the historical significance of April 30th to the State of Tennessee and the Nation. Casey Jones, a legendary Tennessee railroad engineer, made history when his engine collided with another train on April 30, 1900. Casey's infamous ride and his selfless actions to save the lives of innocent bystanders have been lauded in folk music and drama throughout the past century. It is in his memory and the spirit of his efforts that I ask my colleagues to join me in recognizing Casey Jones' bravery and heroism.

Americans have been fascinated by the life of Casey Jones not merely for his heroism but also for his personification of the American dream. Casey's legendary life is a universal tale, and one that was guided by the foundations of this great nation: diligence, perseverance, determination, and sacrifice. Casey began as a cub operator for the railroads, then worked as a fireman, and eventually became an engineer in 1891, an accomplishment that was rarely seen in those days. He moved his family anywhere he could find employment, but he never neglected his role as a caring father and devoted husband.

Casey had a reputation as a trusted and capable engineer, and he soon found himself in charge of regularly scheduled passenger trains.

On the night of April 29, 1900, Casey departed Memphis aboard Engine 382 with six passenger cars one hour and thirty-five minutes late. Protocol demanded that engineers make their arrival time regardless of the tardiness of their departure. Casey was renowned throughout the region for his ability to make time, and he was doing an excellent job until he arrived at Vaughn Station, only eleven miles from his final destination. While attempting to maintain his scheduled arrival, Casey missed a flag signal warning that a freight train was still on the tracks ahead of him. Casey's engine collided with the caboose, but instead of abandoning his engine as instructed, he stayed behind in the hope that the lives of his passengers could be saved. Due to Casey's heroic attempts to stop and slow the train, none of Casey's passengers were injured and he was the only one killed in the crash.

Throughout this year, Casey Jones' hometown of Jackson, Tennessee, will celebrate the centennial of his gallant ride and recognize his contributions to American history. The events will culminate on the anniversary of the crash with a celebration sponsored by the Casey Jones Village, the Casey Jones Home and Railroad Museum, and the City of Jackson. I encourage everyone to take part in these events and remember the legacy of Casey Jones—an American folk hero.●

ARIAIL PULITZER NOD

● Mr. HOLLINGS. Mr. President, it is an honor for me to recognize one of South Carolina's most talented journalists, Robert Ariail, who was recently selected as one of the three finalists for the Pulitzer Prize in editorial cartooning. This is the second time he has made the Pulitzer shortlist, having also been a 1995 finalist. Since joining The State newspaper in Columbia, SC in 1984, Mr. Ariail has informed and charmed South Carolina readers with a collection of original, insightful and finely-crafted cartoons. Having been a subject of his satire, I can personally attest to his talent. His work has earned him numerous national and international awards including the Overseas Press Club's Thomas Nast Award, the National Headliner Award and the national Sigma Delta Chi Award. I have faith that three times will be the charm for Robert Ariail and the Pulitzer; this prestigious award could not go to a more deserving person.●

THE 150TH BIRTHDAY OF GRAND RAPIDS, MICHIGAN

● Mr. ABRAHAM. Mr. President, I rise today in honor of the City of Grand Rapids, Michigan, which on May 1, 2000, will celebrate its 150th birthday. Residents of the city have been invited to commemorate the occasion with Mayor John Logie at the Grand Rapids Sesquicentennial Community Party, an event which will highlight the growth and development of a city that is still on the ascent.

When a group of fur trappers, explorers, loggers, and sod busters took a break from their daily activities on May 1, 1850, to make Grand Rapids an incorporated city, the estimated population was 2,686 persons. The number of square miles that the city encompassed stood at four, the estimated number of city officials was sixteen, there were thirty two miles of road within city limits, and there was neither a police force nor a fire department. To be sure, the first mayor of Grand Rapids, Mr. Henry R. Williams, had his work cut out for him.

Today, I think Mr. Williams would be extremely proud to see how far the city of Grand Rapids has come in its 150 years. Its population now stands at 192,000 persons, and, when surrounding metropolitan areas are added to this, the figure grows to 1,021,200. This makes Grand Rapids the second largest city in Michigan and the 58th largest city in the Nation. The city encompasses 45 square miles, employs over 2,000 city officials, has 562.81 miles of road within its limits, a police force of 379 officers and a fire department of 260 firefighters. Mr. President, I think it goes without saying that Mayor Logie also has a lot of work on his hands.

The City of Grand Rapids has planned many events to be included as part of its Sesquicentennial Celebration. All elementary schools, public, private, and charter, will be served birthday cake on May 1. The original city boundary will be marked with special historic 1850 signs. City officials have commissioned the designing of a parade float to participate in area parades, which depicts the Grand River and is fully equipped with jumping fish, fireworks, and depictions of historic buildings and neighborhoods. Free coloring books entitled ''The City of Grand Rapids: Then and Now,'' will be distributed on April 29, 2000.

In addition, officials from the four sister cities of Grand Rapids—Omihachiman, Japan; Bielsko-Biala, Poland; Perugia, Italy; and Ga District, Ghana—will join in the celebration. A time capsule, to be built into the new Archive Center, will receive its first items. One hundred and fifty trees will be planted throughout the community to commemorate the birthday celebration. A beginning list of 150 historical sites in Grand Rapids will be released on April 29, 2000, and will be completed throughout the year. And finally, the Grand Rapids Press will publish four essays, submitted by Grand Rapids residents, as a tribute to the birthday, with the topics of these essays ranging from diversity to the city's quality of life.

Mr. President, in one hundred and fifty years, residents of Grand Rapids have experienced their fair share of both prosperity and decline. At the end of World War II, the future of Grand Rapids looked bleak. Through the incredible efforts of thousands of individuals in the years since, though, the city has managed to turn the tables full tilt. As we enter the new millennium, Grand Rapids is enjoying the greatest economic boom in its history. With this economic prosperity has come a remarkable turn in the overall quality of life that residents enjoy. Also, it should be noted that Grand Rapids is one of Michigan's most diverse cities, diversity which increases everyday as more and more jobs are created within city limits. The turnaround of Grand Rapids serves as a model, and an inspiration, to other cities, not only in Michigan, but throughout the Nation.

Mr. President, I extend greetings to all those participating in the Grand Rapids Sesquicentennial Community Party, and the many other events that have been planned for the celebration of the anniversary. On behalf of the entire United States Senate, I wish the City of Grand Rapids a happy 150th birthday.●

DIABETES RESEARCH

● Mr. WYDEN. Mr. President, as a member of the Senate Diabetes Caucus, I am concerned with the need for further research for a cure for diabetes. Recently, I had several meetings with constituents from Portland, Eugene, and Lake Oswego, Oregon concerning diabetes research funding. All of these constituents are young children or young adults living with this disease. One young woman told me that she has already lost three friends to this disease.

For fiscal year 2000, the National Institutes of Health (NIH) received a $13.3 million increase over last year's funding for diabetes. This increase brings the total amount for diabetes research to $462.3 million. For those who have to live every day with diabetes and for those who are the parents of a child living with disease, and who have to worry every day about the long-term toll diabetes disease takes on their child, this is not enough.

Diabetes can destroy nerves, harm eyesight, and cause a host of other deleterious effects on the body. While I am pleased that there was an increase in the funding of NIH for diabetes research last year, I believe we can and should do more to assure that we find a cure.

While funding has increased from $134 million in fiscal year 1980, this only represents approximately 2 percent growth per year when adjusted for inflation. Considering the widespread and devastating effects of this disease, we should continue to support the funding increases for NIH research of diabetes.

I know that many of my colleagues feel strongly about this issue as well. I

hope we can work in a bipartisan manner to assure an increase in research funding to find a cure.●

TRIBUTE TO OHIO COUNTY HIGH SCHOOL STUDENTS

● Mr. McCONNELL. Mr. President, I rise today to congratulate students at Ohio County High School for their First Place finish in the Kentucky competition of the ''We the People . . . The Citizen and the Constitution'' program and for their advancement to the national competition.

I am proud to share with my colleagues that the class from Ohio County High School in Hartford, Kentucky will represent our State in the national competition of ''We the People . . . The Citizen and the Constitution'' program. These young scholars have worked diligently to reach the national finals and through their hands-on experience have gained knowledge and understanding of the fundamental principles and values of our constitutional democracy.

I wish to acknowledge each of the winning students: Amber Albin, Kyle Allen, Rebecca Ashby, Susanna Ashby, Jamie Barnard, Nicole Bellamy, Brian Canty, Susan Fields, Sam Ford, Amanda Gilstrap, Crystal Goff, Chris Hunt, Leslie Johnson, Andrea Leach, Jason Martin, Jason Mayes, Lacey Patterson, Sarah Phillips, Dexter Reneer, Ann Shrewsbury, Luke Sims, Keegan Smith, Erika Underwood, Tara Ward, Michelle Westerfield.

I also would like to recognize and thank their teacher, John Stofer, who taught these students and provided the leadership which brought them to the final competition of this year's program.

The ''We the People . . .'' program is designed to educate young people about the Constitution and the Bill of Rights. During the final competition, the students will be challenged in a three-day program modeled after Congressional hearings. The students will make oral presentations and testify as constitutional experts to a panel of adult judges, and then will be questioned and judged on their knowledge and grasp of the Constitution. As a strong advocate for the Constitutional rights of all Americans, I applaud the efforts of these young people to understand and apply Constitutional law to real-life situations.

My colleagues and I congratulate these Ohio County High School students in their Kentucky victory, and wish them all the best in their upcoming competition May 6–8, 2000, in Washington, D.C.●

CALIFORNIA'S VETERANS APPRECIATION MONTH

● Mrs. BOXER. Mr. President, I rise in recognition of California's Veterans Appreciation Month, which is celebrated in May 2000. The people of our state and our nation owe more to our veterans than we can ever repay. The world is a safer place, and our Democracy has thrived because of their heroism.

This year, as in years past, the State of California is making an extra effort to assist its veterans who suffer from a lack of suitable employment. California calculates that about 40,000 of its veterans are unemployed or underemployed. This is a tragic situation for these fine men and women who have given so much to America.

During the month of May, California's Employment Development Department will focus special effort to find jobs for these veterans. Local Veterans Employment Representatives and Disabled Veterans Outreach Program staff will be contacting employers, organized labor and government leaders to promote hiring veterans, and they will provide job training and job-search training to former military personnel. Quite simply, the goal of California's Veterans Appreciation Month is to show the appreciation of a grateful nation by providing the employment opportunities that veterans so richly deserve.

I commend the California Employment Development Department for all its fine efforts on this program and I encourage all Americans to support similar efforts in their states.●

RECOGNITION OF STILLWATER HIGH SCHOOL

● Mr. GRAMS. Mr. President, on May 6–8, 2000, more than 1200 students from across the United States will be in Washington, D.C. to compete in the national finals of the We the People . . . The Citizen and the Constitution program. It is an honor for me to announce that a class from Stillwater Area High School will represent the state of Minnesota in this national event. These young scholars have worked very hard to reach the national finals and through their experience have gained a deep knowledge and understanding of the fundamental principles and values of our constitutional democracy.

The names of the students are: Chad Anderson, Ellen Andersen, Luke Anderson, Sara Apel, Rob Cole, Alexis DuPlessis, Melissa Ellis, Kim Garvey, Elissa Green, Kyle Knoepfel, Joey Korba, Amy Kruchowski, Kirsten Lindquist, Beth Manor, Emily Michnay, Alex Nelson, Steve Peterson, Chris Richter, Chris Siver, Stefan Tatroe, Melissa Zanmiller.

I would also like to recognize their teacher, Kathleen Ferguson, who deserves much of the credit for the success of the class.

The We the People . . . The Citizen and the Constitution program is the most extensive educational program in the country developed specifically to educate young people about the Constitution and the Bill of Rights. The three-day national competition is modeled after hearings in the United States Congress. These hearings consist of oral presentations by high school students before a panel of adult judges. The students testify as constitutional experts before a panel of judges representing various regions of the country and a variety of appropriate professional fields. The students' testimony is followed by a period of questioning by the simulated congressional committee. The judges probe students for their depth of understanding and ability to apply their constitutional knowledge. Columnist David Broder described the national finals as ''the place to have your faith in the younger generation restored.''

The program provides students with a working knowledge of our Constitution, Bill of Rights, and the principles of democratic government. Members of Congress and their staff enhance the program by discussing current constitutional issues with students and teachers and by participating in other educational activities.

I am confident the class from Stillwater High School will represent Minnesota well and I wish these young ''constitutional experts'' all the best.●

EAGLE SCOUT AWARD

● Mr. REED. Mr. President, I rise today to salute a distinguished young man from Troop 66 in Garden City, Rhode Island who has attained the rank of Eagle Scout in the Boy Scouts of America.

Not every young American who joins the Boy Scouts earns the prestigious Eagle Scout Award. In fact, only 2.5 percent do. To earn the award, a Boy Scout must fulfill requirements in the areas of leadership, service, and outdoor skills. A scout must earn twenty-one Merit Badges, eleven of which are required from areas such as Citizenship in the Community, Citizenship in the Nation, Citizenship in the World, Safety, Environmental Science, and First Aid.

As one progresses through the Boy Scout ranks, a scout must demonstrate participation in increasingly more responsible service projects. An Eagle Scout candidate must also demonstrate leadership skills by holding one or more specific Troop leadership positions. Ernest Rheaume has distinguished himself in accordance with these criteria.

For his service project, Ernest organized a bicycle and child safety fair at Gladstone Street School in Cranston.

Mr. President, I ask you and my colleagues to join me in saluting Ernest Rheaume. In turn, we must duly recognize the Boy Scouts of America for establishing the Eagle Scout Award and the strenuous criteria its aspirants must see. This program has through its eighty-five years honed and enhanced the leadership skills and commitment to public service of many outstanding Americans.

It is my sincere belief that Ernest will continue his public service and in

so doing will further distinguish himself and consequently better his community.●

TRIBUTE TO BEDFORD SCHOOL SUPERINTENDENT DENNIS POPE

● Mr. SMITH of New Hampshire. Mr. President, I rise today to pay tribute to Dennis Pope upon receiving the New Hampshire Superintendent of the Year Award for the 1999–2000 school year. This honor was awarded to Mr. Pope by the New Hampshire School Administrators Association, and both Mary Jo and I applaud the hard work and dedication that has earned him such high esteem.

Dennis Pope was chosen from eleven other nominees, and it was ultimately his actions and the respect of his peers that elevated him over the competition. He has dedicated nearly three decades of his life to education, the past eleven years of which have been as the Bedord, New Hampshire, Superintendent of Schools. Dennis Pope's goal has always been to make a difference in the lives of his students and in the education process, and he has succeeded. Mr. Pope's efforts exemplify the Association's motto ''Champions for Children.'' Dennis is a champion of both our children and New Hampshire school systems.

Dennis Pope's presence in the Bedford community extends far beyond the walls of its schools. Dennis is an individual who leads by example. He has been a member of the Rotary club, numerous town committees and is currently the Vice-Chairman of the Visitation Committees for the NEASC.

Dennis has illustrated that one can't be a passive participant and prosper. He has taken the initiative of reforming the scholastic curriculum, and he has encouraged community involvement in school affairs. He has shown that being fiscally conservative doesn't detract from an academically rich school system.

Again, I commend Dennis Pope on this very special honor and on his service to the Bedford School System. His work is greatly beneficial to the Town and the State, and I wish him all of the best as he continues to make a difference in his community and in the lives of its young citizens. It is truly an honor to represent Dennis Pope in the United States Senate.●

75TH ANNIVERSARY OF BRIDGEPORT'S ST. RAPHAEL CHURCH

● Mr. DODD. Mr. President, I rise today in recognition of the 75th anniversary of St. Raphael Church in Bridgeport, Connecticut. I commend the church and its devoted members for their long tradition of faithfulness and service. This anniversary is, rightfully, cause for celebration among St. Raphael's parishioners, and it is a pleasure to recognize their enduring commitment to the Bridgeport community.

The 1920s and 1930s saw a great influx of Italian immigrants into this country generally and into the City of Bridgeport, Connecticut specifically. These immigrants brought hope and courage to America, and they also brought with them a strong religious faith. A new Roman Catholic parish, St Raphael's, was soon established in Bridgeport to minister to their needs.

While the church that everyone in Bridgeport recognizes as St. Raphael's was being built, masses were held in the old Caruso Theater. An altar was carried in on Sundays to make the theater more like a sanctuary. Services were modest, but they drew the parish together. On Christmas Day, 1925 the faithful celebrated the first mass in their new church. From that day forward the church has prospered and grown. A convent was added to the parish in 1937 and the sisters who lived there led religious instruction for six hundred public school children every week.

During World War II, hundreds of young men from this church bravely went overseas to fight for their country, and fifty of them never returned.

Despite these losses, the 1940s were a time of expansion for the church. New land was acquired and new buildings were raised. The church's current appearance is a result of the work done primarily during this period.

St. Raphael's is one of the most beautiful churches in Bridgeport, and I believe, in the entire state of Connecticut. What was once a yellow Spanish-style mission has undergone many renovations. Now a Gregorian Romanesque building overlooking a school, convent, and rectory, much of the property surrounding it belongs to the Church. The altar inside was imported to this country from Italy. Some of the woodwork around the altar was carved by Italian artists, while most of the renovations to this building have been the product of devoted parishioners throughout the past seven decades. From the marble steps to the artwork contained within the Church, this place of worship is a proud combination of traditional Italian style and modern American workmanship and dedication.

As St. Raphael's celebrates its 75th Anniversary, it is fitting to remember the rich history and the important role that this parish has had in the community and for the many generations of Italian-Americans that have lived in Bridgeport. It has persisted through the years as a source of spiritual guidance and communal strength, and I applaud their legacy and wish the parish well at the dawn of this new century.●

ELMENDORF AIR FORCE BASE ENVIRONMENTAL AWARD

● Mr. MURKOWSKI. Mr. President, I would like to recognize a recent achievement of the men and women at Elmendorf Air Force Base in Anchorage, Alaska. Today, they received the Air Force's 1999 General Thomas D. White Environmental Award for Restoration. This award reflects the commitment of the Air Force in Anchorage to making Elmendorf Air Force Base and the surrounding community a better place to live.

Mr. President, the men and women who serve our nation at Elmendorf have always been sensitive to the needs of the communities surrounding the base. Indeed, all of the Air Force installations in Alaska, have gone out of their way to ensure that the environment is not permanently harmed by any military presence. Innovative approaches to cleanup have resulted in Elmendorf being projected to reach Air Force cleanup goals a full ten years ahead of schedule.

Several measures are in place to improve and speed up the cleanup of any future environmental hazards, all at a cost savings of over $1 million to the taxpayers. All of these efforts have ensured a long standing positive relationship with the civilian community and preserved the beautiful lands in Alaska for future generations to enjoy. For this reason, the Air Force today rewarded the men and women at Elmendorf for their diligence.

Today, the people of Elmendorf can be proud of the fact that they are an example by which other Air Force installations around the nation, indeed the world, will measure themselves for environmental awareness. I join the Air Force in commending those at Elmendorf, like Lieutenant General Thomas R. Case and Colonel Duncan H. Showers, who have made this possible. I also look forward to continued work with the Air Force in Alaska to maintain their excellent relationship with the rest of the communities in Alaska.●

TRIBUTE TO LUCAS MOLLER

● Mr. CRAPO. Mr. President, I bring your attention to the recent accomplishments of Lucas Moller. Lucas is 11 years old, a student of Russell Elementary School in Moscow, Idaho, and is currently helping NASA scientists develop sensitive and complex space equipment.

In December of 1999, Lucas was selected by the Planetary Society to have his invention used by NASA scientists on the Mars Surveyor 2001 mission. Mr. President, I know you join Idaho and myself in extending to Lucas congratulations on this achievement.

The Planetary Society asked kindergarten through 12th-grade students to design an experiment that would enhance the Mars Surveyor mission. After learning of this contest, Lucas studied the mission to determine what he could build. What Lucas came up with was both simple and ingenious. He constructed a thimble-sized cylinder designed to help scientists test the angle at which Martian dust falls off space equipment. This invention will allow scientists to learn what angle to position their equipment to prevent dust collecting and interfering with experiments.

When Lucas is not working with the Nation's top scientists on space exploration, he is developing his character with such distinguished organizations as the Boy Scouts. He excels at math and science and is involved in the gifted and talented program at school.

Mr. President, Lucas Moller is an outstanding example of what Idaho students can do with the proper encouragement and dedication. He is a role model for students and scientists of all ages and I am proud that he will represent his family and state in future space exploration. I know you and my colleagues in the Senate join me in offering our congratulations to Lucas.●

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–8583. A communication from the Acting General Counsel, Department of Defense transmitting a draft of proposed legislation relative to the housing allowances paid to uniformed service members stationed in the United States; to the Committee on Armed Services.

EC–8584. A communication from the Acting General Counsel, Department of Defense transmitting a draft of proposed legislation relative to a technical correction to uniformed service pay tables; to the Committee on Armed Services.

EC–8585. A communication from the Acting General Counsel, Department of Defense transmitting a draft of proposed legislation relative to authorizing the reimbursement for the parking expenses of recruiters and other designated military personnel who have specific duties that require them to use their privately-owned vehicles in civilian communities; to the Committee on Armed Services.

EC–8586. A communication from the Assistant Secretary-Indian Affairs, Department of the Interior transmitting a draft of proposed legislation relative to the use and distribution of the Quinault Indian Nation Judgement Funds; to the Committee on Indian Affairs.

EC–8587. A communication from the Planning and Analysis Office, Department of Veterans Affairs transmitting a draft of proposed legislation relative to the Board of Veterans' Appeals; to the Committee on Veterans' Affairs.

EC–8588. A communication from the Administrator, Small Business Administration transmitting a draft of proposed legislation relative to implementation of the President's FY 2001 Budget and other improvements and initiatives; to the Committee on Small Business.

EC–8589. A communication from the General Counsel, Department of the Treasury transmitting a draft of proposed legislation relative to the DoT's security printing and engraving program; to the Committee on the Judiciary.

EC–8590. A communication from the Federal Judicial Center transmitting the annual report for calendar year 1999; to the Committee on the Judiciary.

EC–8591. A communication from the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Indirect Food Additives: Adhesives and Components of Coatings and Paper and Paperboard Components'' (Docket No. 99F–0925), received April 19, 2000; to the Committee on Health, Education, Labor, and Pensions.

EC–8592. A communication from the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medical Devices; Reclassification and Codification of the Stainless Steel Suture'' (Docket No. 86P–0087), received April 19, 2000; to the Committee on Health, Education, Labor, and Pensions.

EC–8593. A communication from the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medical Devices; Effective Date of Requirement for Premarket Approval for Three Preamendment Class II Devices'' (Docket No. 98F–0564), received April 19, 2000; to the Committee on Health, Education, Labor, and Pensions.

EC–8594. A communication from the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Delegations of Authority and Organization'', received April 19, 2000; to the Committee on Health, Education, Labor, and Pensions.

EC–8595. A communication from the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Gastroenterology-Urology Devices; Effective Date of Requirement for Premarket Approval of the Penile Inflatable Implant'' (Docket No. 92N–0445), received April 19, 2000; to the Committee on Health, Education, Labor, and Pensions.

EC–8596. A communication from the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Hematology and Pathology Devices; Reclassification; Restricted Devices; OTC Test Sample Collection Systems for Drugs of Abuse Testing'' (Docket No. 97N–0135), received April 19, 2000; to the Committee on Health, Education, Labor, and Pensions.

EC–8597. A communication from the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medical Devices; Laser Fluorescence Caries Detection Device'' (Docket No. 00P–1209), received April 19, 2000; to the Committee on Health, Education, Labor, and Pensions.

EC–8598. A communication from the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medical Devices; Gastroenterology-Urology Devices; Nonimplanted Peripheral Electrical Continence Device'' (Docket No. 00P–1120), received April 19, 2000; to the Committee on Health, Education, Labor, and Pensions.

EC–8599. A communication from the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Cardiovascular, Orthopedic, and Physical Medicine Diagnostic Devices; Reclassification of Cardiopulmonary Bypass Accessory Equipment, Goniometer Device, and Electrical Cable Devices'' (Docket No. 99N–2210), received April 19, 2000; to the Committee on Health, Education, Labor, and Pensions.

EC–8600. A communication from the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Code of Federal Regulations; Technical Amendments'' (Docket No. 00N–1217), received April 19, 2000; to the Committee on Health, Education, Labor, and Pensions.

EC–8601. A communication from the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medical Devices; Reclassification of 28 Preamendments Class III into Class II'' (Docket No. 99N–0035), received April 20, 2000; to the Committee on Health, Education, Labor, and Pensions.

EC–8602. A communication from the Corporate Policy and Research Department, Pension Benefit Guaranty Corporation transmitting, pursuant to law, the report of a rule entitled ''Valuation of Benefits; Use of Single Set of Assumptions for all Benefits'' (RIN1212-AA91), received April 20, 2000; to the Committee on Health, Education, Labor, and Pensions.

EC–8603. A communication from the Corporate Policy and Research Department, Pension Benefit Guaranty Corporation transmitting, pursuant to law, the report of a rule entitled ''Lump Sum Payment Assumptions'' (RIN1212-AA92), received April 20, 2000; to the Committee on Health, Education, Labor, and Pensions.

EC–8604. A communication from the Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Revisions to the Requirements Applicable to Blood, Blood Components, and Source Plasma'', received April 19, 2000; to the Committee on Health, Education, Labor, and Pensions.

EC–8605. A communication from the National Institutes of Health, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Service Fellowships'', received April 19, 2000; to the Committee on Health, Education, Labor, and Pensions.

EC–8606. A communication from the Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Quality Mammography Standards'', received April 19, 2000; to the Committee on Health, Education, Labor, and Pensions.

EC–8607. A communication from the Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Revision of Requirements Applicable to Albumin (Human) Plasma Protein Fraction (Human), and Immune Globulin (Human)'', received April 19, 2000; to the Committee on Health, Education, Labor, and Pensions.

EC–8608. A communication from the Occupational Safety and Health Administration, Department of Labor transmitting, pursuant to law, the report of a rule entitled ''Nevada State Plan; Final Approval Determination'', received April 18, 2000''; to the Committee on Health, Education, Labor, and Pensions.

EC–8609. A communication from the National Foundation on the Arts and the Humanities transmitting the annual report on the Arts and Artifacts Indemnity Program for fiscal year 1999; to the Committee on Health, Education, Labor, and Pensions.

EC–8610. A communication from the National Science Foundation transmitting a draft of proposed legislation entitled ''National Science Foundation Authorization Act of 2000''; to the Committee on Health, Education, Labor, and Pensions.

EC–8611. A communication from the Deputy Secretary of Education, transmitting a

draft of proposed legislation entitled the ''Higher Education Technical Amendments Act of 2000''; to the Committee on Health, Education, Labor, and Pensions.

EC–8612. A communication from the Secretary of Education, transmitting a draft of proposed legislation entitled the ''Student Loan Improvements Act of 2000''; to the Committee on Health, Education, Labor, and Pensions.

EC–8613. A communication from the Assistant Secretary of the Army, Civil Works, transmitting a report relative to the construction of a flood damage reduction project for the Turkey Creek Basin, Kansas and Missouri; to the Committee on Environment and Public Works.

EC–8614. A communication from the Assistant Secretary of the Army, Civil Works, transmitting a draft of proposed legislation entitled the ''Water Resources Development Act of 2000''; to the Committee on Environment and Public Works.

EC–8615. A communication from the Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, a report entitled ''Emergency Planning and Community Right-To-Know Act Section 313 Reporting Guidance for the Leather Tanning and Finishing Industry''; to the Committee on Environment and Public Works.

EC–8616. A communication from the Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Wildlife and Plants; Final Designation of Critical Habitat for the Spikedance and the Loach Minnow'' (RIN1018-AF76), received April 19, 2000; to the Committee on Environment and Public Works.

EC–8617. A communication from the Board of Governors of the Federal Reserve Board, transmitting, pursuant to law, the report of a rule entitled ''Regulation C-Home Mortgage Disclosure'' (R–1053), received April 18, 2000; to the Committee on Banking, Housing, and Urban Affairs.

EC–8618. A communication from the Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled ''Changes in Flood Elevation Determinations; 65 FR 19666; 04/12/2000'', received April 20, 2000; to the Committee on Banking, Housing, and Urban Affairs.

EC–8619. A communication from the Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled ''Final Flood Elevation Determinations; 65 FR 19669; 04/12/2000'', received April 20, 2000; to the Committee on Banking, Housing, and Urban Affairs.

EC–8620. A communication from the Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled ''Changes in Flood Elevation Determinations; 65 FR 19664; 04/12/2000'', received April 20 , 2000; to the Committee on Banking, Housing, and Urban Affairs.

EC–8621. A communication from the Division of Investment Management, Division of Corporation Finance, Securities and Exchange Commission transmitting, pursuant to law, the report of a rule entitled ''Rulemaking for EDGAR System'' (RIN3235-AH79), received April 24, 2000; to the Committee on Banking, Housing, and Urban Affairs.

EC–8622. A communication from the Office of Thrift Supervision, Department of the Treasury, transmitting the 1999 annual report on the Preservation of Minority Savings Institutions; to the Committee on Banking, Housing, and Urban Affairs.

EC–8623. A communication from the General Counsel, Department of the Treasury, transmitting a draft of proposed legislation entitled the ''Collateral Modernization Act of 2000''; to the Committee on Banking, Housing, and Urban Affairs.

EC–8624. A communication from the Federal Financial Institutions Examination Council, transmitting the 1999 annual report; to the Committee on Banking, Housing, and Urban Affairs.

EC–8625. A communication from the President and Chairman, Export-Import Bank of the United States, transmitting, pursuant to law, a report relative to a transaction involving U.S. exports to Malaysia; to the Committee on Banking, Housing, and Urban Affairs.

EC–8626. A communication from the Office of Legislative Affairs, Department of State, transmitting, pursuant to the Foreign Operations Export Financing and Related Programs Appropriations Act, 2000, a notification that the President has exercised the authority provided to him and has issued the required determination to waive certain restrictions on the maintenance of a Palestine Liberation Organization (PLO) Office and on expenditure of PLO funds for a period of six months; to the Committee on Foreign Relations.

EC–8627. A communication from the Acting Secretary of State, transmitting, pursuant to law, a report entitled ''Voting Practices in the United Nations 1999''; to the Committee on Foreign Relations.

EC–8628. A communication from the Office for Treaty Affairs, Department of State, transmitting, pursuant to law, the report of the texts and background statements of international agreements, other than treaties; to the Committee on Foreign Relations.

EC–8629. A communication from the Regulations Branch, U.S. Customs Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Technical Correction; Description of Gramercy, Louisiana, Boundaries'' (T.D. 00–27), received April 19, 2000; to the Committee on Finance.

EC–8630. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report relative to the initial estimate of the applicable percentage increase in hospital inpatient payment rates for fiscal year 2001; to the Committee on Finance.

EC–8631. A communication from the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Relief from Disqualification for Plans Accepting Rollovers'' (REG–245562–96) (TD8880), received April 24, 2000; to the Committee on Finance.

EC–8632. A communication from the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Delay in Finalizing Last Known Address Regulations'' (Ann 2000–49), received April 24, 2000; to the Committee on Finance.

EC–8633. A communication from the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Weighted Average Interest Rate Update'' (Notice 2000–25), received April 24, 2000; to the Committee on Finance.

EC–8634. A communication from the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''January-March 2000 Bond Factor Amounts'' (Rev. Rul. 2000–22), received April 24, 2000; to the Committee on Finance.

EC–8635. A communication from the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''National Median Income-2000'' (Rev. Proc. 2000–21), received April 24, 2000; to the Committee on Finance.

EC–8636. A communication from the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Medical Conference Travel Expenses'' (Rev. Rul. 2000–24), received April 24, 2000; to the Committee on Finance.

EC–8637. A communication from the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''May 2000 Applicable Federal Rates'' (Rev. Rul. 2000–23), received April 19, 2000; to the Committee on Finance.

EC–8638. A communication from the Health Care Financing Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medicare and Medicaid Programs; Religions, Non-Medical Health Care Institutions and Advance Directives'' (RIN0938–AI93), received April 19, 2000; to the Committee on Finance.

EC–8639. A communication from the Health Care Financing Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medicare Programs; Changes to the FY 1999 Hospital Inpatient Prospective Payment Wage Index and Standardized Amounts Resulting from Approved Requests for Wage Data Revisions'' (RIN0938–AJ26), received April 19, 2000; to the Committee on Finance.

EC–8640. A communication from the Health Care Financing Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medicare Programs; Solvency Standards for Provider-Sponsored Organizations'' (RIN0938–AI83), received April 19, 2000; to the Committee on Finance.

EC–8641. A communication from the Health Care Financing Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medicare Program; Revision to Accrual Basis of Accounting Policy'' (RIN0938–AH61), received April 19, 2000; to the Committee on Finance.

EC–8642. A communication from the Health Care Financing Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medicare Program; Suggestion Program on Methods to Improve Medicare Efficiency'' (RIN0938–AJ30), received April 19, 2000; to the Committee on Finance.

EC–8643. A communication from the Health Care Financing Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medicare Program; Telephone Requests for Review of Part B Initial Claim Determinations'' (RIN0938–AG48), received April 19, 2000; to the Committee on Finance.

EC–8644. A communication from the Health Care Financing Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Health Care Fraud and Abuse Data Collection Program; Reporting of Final Adverse Actions'' (RIN0906–AA46), received April 19, 2000; to the Committee on Finance.

EC–8645. A communication from the Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture transmitting, pursuant to law, the report of a rule entitled ''Olives Grown in California; Decreased Assessment Rate'' (Docket Number FV00–932–1–FIR), received April 17, 2000; to the Committee on Agriculture, Nutrition, and Forestry.

EC–8646. A communication from the Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture transmitting, pursuant to law, the report of a rule entitled ''Tobacco Inspection; Subpart B-Regulations for Mandatory Inspection''

(Docket Number TB–99–07) (RIN0581–AB75), received April 17, 2000; to the Committee on Agriculture, Nutrition, and Forestry.

EC–8647. A communication from the Commodity Futures Trading Commission, transmitting, pursuant to law, the report of a rule entitled ''Minimum Financial Requirements for Futures Commission Merchants and Introducing Brokers'' (RIN3038–AB51), received April 20, 2000; to the Committee on Agriculture, Nutrition, and Forestry.

EC–8648. A communication from the Farm Credit Administration transmitting, pursuant to law, the report of a rule entitled ''Loan Policies and Operations; Participations'' (RIN3052–AB87), received April 17, 2000; to the Committee on Agriculture, Nutrition, and Forestry.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HELMS, from the Committee on Foreign Relations, with an amendment in the nature of a substitute and with a preamble:

S. Res. 272: A resolution expressing the sense of the Senate that the United States should remain actively engaged in southeastern Europe to promote long-term peace, stability, and prosperity; continue to vigorously oppose the brutal regime of Slobodan Milosevic while supporting the efforts of the democratic opposition; and fully implement the Stability Pact.

By Mr. HELMS, from the Committee on Foreign Relations, without amendment and with an amended preamble:

S. Con. Res. 98: A concurrent resolution urging compliance with the Hague Convention on the Civil Aspects of International Child Abduction.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. FEINGOLD (for himself and Mr. LEVIN):

S. 2463. A bill to institute a moratorium on the imposition of the death penalty at the Federal and State level until a National Commission on the Death Penalty studies its use and policies ensuring justice, fairness, and due process are implemented; to the Committee on the Judiciary.

By Mr. GORTON:

S. 2464. A bill to amend the Robinson-Patman Antidiscrimination Act to protect American consumers from foreign drug price discrimination; to the Committee on the Judiciary.

By Mr. WELLSTONE:

S. 2465. A bill to amend the Internal Revenue Code of 1986 to deny tax benefits for research conducted by pharmaceutical companies where United States consumers pay higher prices for the products of that research than consumers in certain other countries; to the Committee on Finance.

By Mr. GORTON:

S. 2466. A bill to require the United States Trade Representative to enter into negotiations to eliminate price controls imposed by certain foreign countries on prescription drugs; to the Committee on Finance.

By Mr. SPECTER:

S. 2467. A bill to suspend for 3 years the duty on triazamate; to the Committee on Finance.

By Mr. SPECTER:

S. 2468. A bill to suspend for 3 years the duty on 2, 6-dichlorotoluene; to the Committee on Finance.

By Mr. SPECTER:

S. 2469. A bill to suspend for 3 years the duty on 3-Amino-3-methyl-1-pentyne; to the Committee on Finance.

By Mr. SPECTER:

S. 2470. A bill to suspend for 3 years the duty on fenbuconazole; to the Committee on Finance.

By Mr. SPECTER:

S. 2471. A bill to suspend for 3 years the duty on methoxyfenozide; to the Committee on Finance.

By Mr. SHELBY:

S. 2472. A bill to amend the Migratory Bird Treaty Act to restore certain penalties under the Act; to the Committee on Environment and Public Works.

By Mr. GRASSLEY:

S. 2473. A bill to strengthen and enhance the role of community antidrug coalitions by providing for the establishment of a National Community Antidrug Coalition Institute; to the Committee on the Judiciary.

By Ms. SNOWE (for herself and Mr. SESSIONS):

S. 2474. A bill to amend title 10, Unite States Code, to improve the achievement of cost-effectiveness results from the decision-making on selections between public workforces and private workforces for the performance of a Department of Defense function; to the Committee on Armed Services.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LOTT (for himself and Mr. DASCHLE):

S. Res. 297. A resolution to authorize testimony and legal representation in Martin A. Lopow v. William J. Henderson; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. FEINGOLD (for himself and Mr. LEVIN):

S. 2463. A bill to institute a moratorium on the imposition of the death penalty at the Federal and State level until a National Commission on the Death Penalty studies its use and policies ensuring justice, fairness, and due process are implemented; to the Commission on the Judiciary.

NATIONAL DEATH PENALTY MORATORIUM ACT OF 2000

Mr. FEINGOLD. Mr. President, I rise today to introduce the National Death Penalty Moratorium Act of 2000. This bill would place an immediate pause on executions in the United States while a national, blue ribbon commission reviews the administration of the death penalty. Before one more execution is carried out, jurisdictions that impose the death penalty have an obligation to ensure that the sentence of death will be imposed with justice, fairness, and due process. I am pleased that my distinguished colleague from Michigan, Senator LEVIN, has joined me as a co-sponsor of this important initiative.

If a particular aircraft crashed one out of every eight flights, Congress would act immediately to ground it. But as New York public defender Kevin Doyle says in the book, Actual Innocence, that is about what is happening now with the death penalty in this country. Since the reinstatement of the modern death penalty, 87 people have been freed from death row because they were later proven innocent. That is a demonstrated error rate of 1 innocent person for every 7 persons executed. When the consequences are life and death, we need to demand the same standard for our system of justice as we would for our airlines.

Both supporters and opponents of the death penalty should be concerned about the flaws in the system by which we impose sentences of death. More than 3,600 inmates sit on State and Federal death rows around the country, while it becomes increasingly clear that innocent people are being put to death.

A 1987 study found that between 1900 and 1985, 350 people convicted of capital crimes in the United States were innocent of the crimes charged. Some escaped execution by minutes. Regrettably, according to researchers Radelet and Bedau, 23 had their lives taken from them in error.

In Illinois, since 1973, 13 innocent people have been freed from death row in the time that 12 were executed. Governor George Ryan, a supporter of the death penalty, has done two things in response: He has effectively imposed a moratorium on executions and established a blue ribbon commission to review the administration of capital punishment in Illinois. Governor Ryan and I are from different political parties, but we both recognize that the system by which we impose the death penalty is broken.

Modern DNA testing of forensic evidence led to the exoneration of 5 of the 13 innocents freed from Illinois' death row and 8 of the 87 men and women who have been freed from death row nationwide since the 1970's. But Illinois and New York are the only states that currently provide some measure of access to DNA testing for death row inmates. My distinguished colleague from Vermont, Senator LEAHY, has introduced a bill, the Innocence Protection Act, of which I am a co-sponsor, that would ensure access to DNA testing for all inmates on death row in the Federal system and the 38 States that impose the death penalty. That bill is an important initiative to help ensure that innocents are not condemned to death. I hope my colleagues will join Senator LEAHY in moving this bill forward.

But, as Governor Ryan and others have recognized, flaws in our system unfortunately go well beyond access to DNA testing. As Barry Scheck, Peter Neufeld and Jim Dwyer note in their book, ''Actual Innocence,''

> Sometimes eyewitnesses make mistakes. Snitches tell lies. Confessions are coerced or fabricated. Racism trumps truth. Lab tests are rigged. Defense lawyers sleep.

Indeed, Scheck and Neufeld note that eyewitness error is the single most important cause of wrongful convictions.

As important as DNA testing is, it is only the first step in addressing the host of problems in the administration of capital punishment.

It is time for the Congress to take the lead and declare once and for all that it is unacceptable to execute an innocent man or woman. It is a central pillar of our criminal justice system that it is better that many guilty people go free than that one innocent should suffer. Sadly, history has demonstrated that time and again, America has brought innocence itself to the bar and condemned it to die. That history now demonstrates that even in America, innocence itself has provided no security from the ultimate punishment.

Most insidiously, the ghosts of institutional racism still haunt our courthouses. They intrude when lawyers select jurors, during the presentation of evidence, when the prosecutor contrasts the race of the victim and defendant, and when juries deliberate. The evidence mounts that the United States applies the death penalty differently to people of different races.

The numbers tell the story: Although African-Americans constitute only 13 percent of the American population, since the Supreme Court reinstated the death penalty in 1976, African-Americans account for 35 percent of those executed, 43 percent of those who wait on death row nationwide, and 67 percent of those who wait on death row in the Federal system. Although only 50 percent of murder victims are white, fully 84 percent of the victims in death penalty cases were white. Since 1976, America has executed 11 whites for killing an African-American, but has executed 144 African-Americans for killing a white.

Governor Ryan and Illinois serve as a model for the Congress and the Nation. The flaws in the Illinois criminal justice system are not unique. Problems like convicting the innocent, racial disparities in the application of the death penalty, and inadequacy of defense counsel have plagued the administration of capital punishment across the Nation. That is why we need a national review of the death penalty and a suspension of executions until we can be sure that death row inmates across the country have been given the full protections of justice, fairness, and due process.

Governor Ryan is not alone in questioning the state of the death penalty. In the last few months, people of all political stripes have been stepping forward to say there is a problem and it is time to do something about it.

Columnist George Will recently wrote that serious defects exist in the criminal justice system by which we impose capital punishment. In a recent column in The Washington Post, George Will wrote that accounts of the wrongly convicted compel the conclusion that ''many innocent people are in prison, and some innocent people have been executed.'' He also wrote that even though he continues to believe that capital punishment may be a deterrent to crime, it can only be an effective deterrent if the criminal justice system operates properly to convict and sentence those who actually committed the offense, not innocent people.

The Reverend Pat Robertson, a founder of the Christian Coalition and a long-time supporter of the death penalty, has also recognized that something is terribly amiss in the administration of the death penalty. At a recent conference at the College of William and Mary, Reverend Robertson noted that the death penalty has been administered in a way that discriminates against minorities and the poor who cannot afford high-priced defense attorneys. Reverend Robertson said, ''these are all reasons to at least slow down.'' He also said, ''I think a moratorium would indeed be very appropriate.''

Around the country, other State and local legislative bodies have also urged pause and reflection. At least 17 city and county governments have now passed resolutions supporting a moratorium on executions. And resolutions have been offered in the legislatures of several states, including Alabama, Maryland, New Jersey, Oklahoma, Pennsylvania and Washington state. In 1997, the American Bar Association adopted a resolution calling for a nationwide moratorium on executions. Recently, the U.S. Catholic Conference, the Union of American Hebrew Congregations and a number of other religious organizations called on the President to suspend the scheduling of executions and initiate a review of the administration of capital punishment at the Federal level. These local governments and organizations have recognized that a little time and a little reflection are not much to ask when the lives of innocent people may hang in the balance.

Congress, too, should recognize that a little time and reflection are not too much to ask. That is why I ask my colleagues to support the bill I introduce today. This bill simply calls on the Federal Government and all States that impose the death penalty to suspend executions while a national commission reviews the administration of the death penalty. The Commission would study all matters relating to the administration of the death penalty at the Federal and State levels to determine whether it comports with constitutional principles and requirements of fairness, justice, equality and due process. Congress would review the Commission's final report and then enact or reject its recommendations. Those jurisdictions that impose capital punishment could resume executions only after Congress considers the Commission's final report and repeals the suspension of executions provision of the bill.

This means that before executing even one more person, the Federal Government and the States must ensure that not a single innocent person will be executed, eliminate discrimination in capital sentencing on the basis of the race of either the victim or the defendant, and provide for certain basic standards of competency of defense counsel.

Questions about the administration of the death penalty can only be answered with an impartial, independent review.

The blue-ribbon commission called for in my bill would include prosecutors, defense attorneys, judges, law enforcement officials, and other distinguished Americans with experience or expertise in the issue. It would be a balanced commission, not chock full of death penalty foes or death penalty supporters representing different viewpoints on the issue. Other nations, including some of our closest allies, have also established national commissions to review the death penalty.

In the 1950s, Great Britain created the Royal Commission on Capital Punishment, and the Canadian Parliament established a joint committee of their Senate and House to review capital punishment. Now, almost 50 years later, I believe it is time for the United States to undertake a national review. We should be the leader on issues of justice.

It has been almost 25 years since the reinstatement of the death penalty, and we still don't know how innocent people got on death row or how to prevent it from happening again. That is embarrassing, at the least, for the world's greatest democracy. My bill is a step in the right direction. And the time is now. Our Nation has come to the point where the machinery of death is well greased, and the pace of executions has accelerated. Last year, our Nation hit an all-time high for total executions in any 1 year since 1976. We had 98 executions last year in America. This year, we are already on track to meet or exceed that same high rate.

Before our Government takes the life of even one more citizen, it has a solemn responsibility to every American to prove that its actions are consistent with our Nation's fundamental principles of justice, equality, and due process. Before carrying out an irreversible punishment, the Government must carefully consider the tough questions surrounding capital punishment.

Mr. President, let us slow the machinery of death to ensure we are being fair. Let us reflect to ensure that we are being just. Let us pause to be certain we do not kill a single innocent person. This is really not too much to ask for a civilized society. I urge my colleagues to join me and my distinguished colleague, Senator LEVIN, in sponsoring the National Death Penalty Moratorium Act of 2000.

By Mr. GORTON:

S. 2464. A bill to amend the Robinson-Patman Antidiscrimination Act to protect American consumers from foreign

drug price discrimination; to the Committee on the Judiciary.

PRESCRIPTION DRUG FAIRNESS ACT

Mr. GORTON. Mr. President, yesterday, a group of 22 Washington State senior citizens boarded a bus in Seattle and drove to British Columbia in Canada to purchase their prescription medicine. Collectively, those 22 individuals saved $12,000 by taking that bus ride—an average of more than $550 per individual. It is stories like this that have taken place over the last 2 or 3 years that bring me here today.

Every day, all across our northern and southern borders, Americans leave the U.S. in order to purchase products discovered, developed, manufactured, and sold in the United States, but substances, prescription drugs, that are far less expensive in Canada, Mexico, and for that matter, in the United Kingdom and across Europe than here in the United States.

My own office did an informal survey and found that for the ten most commonly prescribed drugs, prices in British Columbia average 60-percent less than prices for the identical drugs in the identical quantities in the State of Washington. These lower prices don't apply only in Washington State or in our northern border States. For example, Prozac, to treat depression, is 95 cents a pill in Mexico and $2.21 in the United States. The allergy drug, Claritin, costs almost $2 a pill in the United States and 41 cents in the United Kingdom. Rilutek, to treat Lou Gehrig's disease, costs $9,000 in the United States and $5,000 in France.

Now, it is simply unfair to impose these higher prices on citizens of the United States at the drugstore cash register, when the same drugs are being sold by the same companies at wholesale, at so much lower prices almost everywhere else in the world.

What is the reason for this price differential? It is a simple one. Each of these other countries imposes price controls on the price for which they allow their purchasers to pay. The American company, on the other hand, looks at the situation and says that price is too low to cover my costs of research and development, but I can impose all of the costs of research and development on American citizens. The marginal cost of manufacturing more pills and selling them in France, Mexico, or in Canada is really very small. So I can sell for half the price in Canada that I charge in the United States and still make a profit.

The company makes out just fine. The American citizen pays the price. The American citizen pays the price more than once because the American citizen has already paid roughly 50 percent of the cost of developing that drug through our tax system, either through direct appropriations at the National Institutes of Health or through various research and development tax credits.

Just on Sunday morning, the New York Times had an extensive article on a drug called Xalatan, which is used for glaucoma, an eye condition, developed by an NIH grant in the original instance at Columbia University, sold to an American drug company which did the rest of the research and development but sold today for one-third of the American price in Hungary, and barely half or a third of the American price in France and Canada and in the rest of the world. That is all due to the fact that these other countries are getting a free ride on the backs of American citizens, American purchasers, for the research, development, marketing, and sale of these drugs.

Now, I have labored for the last 5 months to find an answer to this question, and my favorite answer to this question at this point is included in the bill. The bill is very simple. It builds on an almost 65-year-old precedent, which is the Robinson-Patman Act. In 1936, this Congress passed the Robinson-Patman Act and prohibited price discrimination, with very minor exceptions, in sales to U.S. purchasers from manufacturers and from wholesalers, designed originally to prevent the big chain company from getting such a price break from the manufacturer that it could drive its smaller competitors out of business. It simply prohibited that kind of price discrimination.

My bill amends that 65-year-old Robinson-Patman Act by extending that nondiscriminatory provision from interstate commerce to interstate and foreign commerce with respect to prescription drugs. Remember, this law has applied to our American drug manufacturers for 65 years, as far as their sales within the United States are concerned. Now, if my bill passes, it will apply to their sales overseas, outside of our country. That will spread the cost of research and development fairly across all of the purchasers, not just the American purchasers, and will inevitably result in lower prices for American prescription drug users, which is exactly what we ought to do. We will give the drug manufacturers not only the opportunity, but the requirement that they treat their American purchasers fairly, just as they have been required not to discriminate among American purchasers for more than six decades.

As you know, we are in the midst of a national debate over prescription drugs and, most particularly, over whether or not we should grant a prescription drug benefit to at least certain senior citizens who are the beneficiaries of our Medicare system. Just 2 weeks ago in this body, we voted on a budget resolution that authorizes up to $40 billion for such a drug benefit over the course of the next 5 years. I supported that budget resolution, and I will support what our proper committees report to us in response to that resolution.

That will benefit one distinct group of senior citizens, those whose income levels are low enough to benefit from this assistance in purchasing their prescription drugs. It will do absolutely nothing for other seniors. It will do nothing for the 44 million uninsured in the United States. It will do nothing for the costs of health care insurance—for those policies that prescribe prescription drug benefits and, therefore, have that cost reflected in the insurance premiums at all. In other words, as important as it is to certain seniors, it won't go to the heart of the problem—the high and increasing cost of prescription drugs.

Part of those high costs are due to the great success of our drug companies. More and more, a greater share of our health care dollars go to the prescription drug feature every year because they are now successful in treating conditions that previously could not be treated at all or required hospitalization. We should hail that progress. We certainly should support drug companies' research and development of new medicines, but we should not countenance discrimination against American citizens and against American purchasers by allowing those companies to sell precisely the same prescription in almost every other country in the world at prices half or less than half of what they sell them for in the United States.

I have been working on this proposition ever since a November 1999 cover story in Time magazine which first illustrated the stark nature of this problem and its costs. With all of this work and with my consultation over the last month with the drug companies themselves, which do not like my bill one bit, I have sought a goal. I am not wedded to a particular means. I think this bill is a good way to reach that goal, but it is not necessarily the only goal. I want the drug companies themselves to come up with an answer to this question.

Members on both sides of the aisle have introduced so-called ''reimportation'' bills, which I find relatively attractive though rather bizarre. At the present time, my senior citizens can go up to Canada, as they did yesterday, and buy a 3-month supply of prescriptions for their own personal use and bring them back to the United States. But the pharmacy in Bellingham, WA, can't go up to a wholesaler in Canada and get the lower Canadian price and pass it on to that pharmacy's customers in the State of Washington. That kind of reimportation is barred, even though we are talking about precisely the drug that the Bellingham pharmacy is now required to buy directly from the manufacturer.

Reimportation bills with certain limitations would lift that restriction and would allow the bizarre situation where the drugstore in the United States could purchase an American-manufactured drug in Canada for less than it could buy it for in the United States. I think that solution may very well be the direction in which we ought to go. I am also convinced that there are other ways of doing it. I will say

that the drug companies made a reasonable suggestion to me for a tiny bit of the problem.

By Mr. WELLSTONE:

S. 2465. A bill to amend the Internal Revenue Code of 1986 to deny tax benefits for research conducted by pharmaceutical companies where United States consumers pay higher prices for the products of that research than consumers in certain other countries; to the Committee on Finance.

PRESCRIPTION PRICE EQUITY ACT OF 2000

Mr. WELLSTONE. Mr. President, I rise to introduce legislation today, the Prescription Drug Price Equity Act of 2000. My colleague, PETE STARK, a Representative for the State of California in the House of Representatives—I want to give him full credit for having introduced this legislation in the House. I am proud to be a partner with him.

The long and the short of it is this bill amends the Internal Revenue Code of 1986 to deny tax benefits for research conducted by pharmaceutical companies where U.S. consumers pay higher prices for the products of that research than consumers in certain other countries, such as Canada. I could go into this in great detail, but I think the operational definition is of 5 percent more.

I tell you right now, in my State of Minnesota, seniors and others are in a state of outrage by the fact they can go and buy the same drug—produced in this country, FDA approved—for half the price in another country.

If we are going to be giving these tax benefits to these pharmaceutical companies, I think they are going to have to be more concerned about the very public that gives them these benefits. So I introduce this legislation and look forward to support from my colleagues.

Mr. President, like the rest of my colleagues I have just returned from a week in my home State of Minnesota. I met with many constituents, but none with more compelling stories than senior citizens struggling to make ends meet because of the high cost of prescription drugs—life-saving drugs that are not covered under the Medicare program. Ten or 20 years ago these same senior citizens were going to work everyday—in the stores, and factories, and mines in Minnesota—earning an honest paycheck, and paying their taxes without protest. Now they wonder, how can this Government—their Government—stand by, when the medicines they need are out of reach.

The unfairness which Minnesotans feel is exacerbated of course by the high cost of prescription drugs here in the United States—the same drugs that can be purchased for frequently half the price in Canada or Mexico or Europe. These are the exact same drugs, manufactured in the exact same facilities with the exact same safety precautions. A year ago, most Americans did not know that the exact same drugs are for sale at half the price in Canada. Today, you can bet the pharmaceutical industry wishes no one knew it. But the cat is out of the bag—and it is time for Congress to right the inequities that are rife in the way the United States government interacts with the pharmaceutical industry.

Today, I want to focus on one of those inequities—the subsidies that the United States Government offers to pharmaceutical manufacturers to develop drugs which these same companies proceed to sell to the American people at up to twice the price they charge in other countries. To combat that problem I am introducing today the Prescription Price Equity Act of 2000, a bill to deny research tax credits to pharmaceutical companies that sell their products at significantly higher prices in the U.S. as compared to other industrialized countries.

The need for this bill is clear. The U.S. Government provides lucrative tax credits to the pharmaceutical industry in this country in order to promote research and development of new lifesaving pharmaceutical products. Yet, in return for these government subsidies, the drug companies charge uninsured Americans the highest prices for drugs paid by anyone in the world.

The Congressional Research Service recently completed an analysis of the tax treatment of the pharmaceutical industry. That analysis concluded that tax credits were a major contribution to lowering the average effective tax rate for drug companies by nearly 40 percent relative to other major industries from 1990 to 1996. Specifically, the report found that while similar industries pay a tax rate of 27.3 percent, the pharmaceutical industry is paying a rate of only 16.2 percent. At the same time, after-tax profits for the drug industry averaged 17 percent—three times higher than the 5 percent profit margin of other industries.

It is time for the pharmaceutical industry to earn these tax benefits—by offering their life saving drugs to America's seniors at the same prices they charge in other countries.

Numerous studies have shown that uninsured seniors pay exorbitant prices for pharmaceuticals. Surveys done by the Minnesota Senior Federation on the prices of the most commonly used drugs by Medicare beneficiaries found that in Minnesota, seniors pay on average about twice the price that Canadian seniors just across the border pay for the exact same medication. I know that the House Government Reform Committee compared prices of prescription drugs in the numerous districts around the country with the prices of prescription drugs in Canada. Those comparisons found price differentials in the exact same ballpark that we found in Minnesota. It is no wonder that Minnesota seniors are willing to spend their time and money to go across the border to buy their prescription medications. And the same is happening all over New England, in the Dakotas, in Montana, in Washington state, and elsewhere.

Yet, at the same time that seniors are being asked to pay these outrageous prices, the drug companies are reaping the benefit of generous governmental subsidies. There's something wrong with a system that gives drug companies huge tax breaks while allowing them to price-gouge seniors. The Prescription Price Equity Act of 2000 attempts to correct this glaring inequity in a very even-handed approach. The message to pharmaceutical companies is this: So long as your company gives U.S. consumers a fair deal on drug prices as measured against the same products sold in other OECD countries, you will continue to qualify for all available research tax credits. But if your company is found to be fleecing American taxpayers with prices higher than those charged for the same product sold in other industrialized countries, like Japan, Germany, Switzerland, or Canada, then you become ineligible for those tax credits.

I know that the pharmaceutical industry, through its trade association, PhRMA, will oppose the Prescription Price Equity Act and will claim that the bill means the end of pharmaceutical research and development. That is complete nonsense. As shown by Congressional Research Service, drug industry profits are already three times higher than all other major industries. This legislation doesn't change the current system of research tax credits at all unless drug companies refuse to fairly price their U.S. products. This bills intent is by no means to reduce the U.S. Government's role in promoting research and development. It is simply to make clear that in return for such significant government contributions to their industry, drug companies must treat American consumers fairly. Is there any reason why U.S. tax dollars should be used to allow drug prices to be reduced in other highly developed countries, but not here at home as well? Of course there is no good reason for that.

That is why this bill simply tells PhRMA that U.S. taxpayers will no longer subsidize low prices in the OECD countries with our tax code. Research and development is important and that is why we give these huge tax breaks, but that research and development does little good for U.S. consumers who can't afford to buy the products of that research.

This bill does not solve the biggest underlying problem that America's senior citizens face. Only a comprehensive, prescription drug benefit, available to and affordable by all Medicare beneficiaries will do that. I have introduced and cosponsored legislation that can make that happen. But this bill, the Prescription Price Equity Act, nonetheless, sends an important message. It makes clear that the priority of the Federal Government in subsidizing research and development is to make sure that the miracles of modern medicine that result are at least equally available to American citizens as

they are to those in the rest of the industrialized world.

By Mr. GORTON:

S. 2466. A bill to require the United States Trade Representative to enter into negotiations to eliminate price controls imposed by certain foreign countries on prescription drugs; to the Committee on Finance.

PRESCRIPTION DRUG PRICE CONTROL LEGISLATION

Mr. GORTON. Mr. President, today I am introducing a bill that will direct the U.S. Trade Representative for the next year to negotiate fairer and more equal prices from foreign governmental purchasers, and, in the absence of success of doing so, make specific statutory recommendations to this Congress.

This is a proposal the drug companies themselves suggested to me. I regard it as a constructive proposal, but not as a solution to the problem standing alone. But it is a tangible result of the course I have already charted, and one that came as a result of my communication with drug companies of my concerns and the earlier draft of the bill I am introducing today.

The problem is a very simple one. American citizens are paying too much for prescription drugs because our companies are allowing foreign purchasers to pay too little for exactly the same drugs. At the very least, American citizens who have spent so much of their tax money in financing the research and development of these drugs should not be paying more than purchasers in other countries.

That is the goal of each of the two bills I am introducing today, but what I really want and what the American people really want is a solution and answer to this problem.

By Mr. SPECTER:

S. 2467. A bill to suspend for 3 years the duty on triazamate; to the Committee on Finance.

S. 2468. A bill to suspend for 3 years the duty on 2, 6-dichlorotoluene; to the Committee on Finance.

S. 2469. A bill to suspend for 3 years the duty on 3-Amino-3-methyl-1-pentyne; to the Committee on Finance.

S. 2470. A bill to suspend for 3 years the duty on fenbuconazole; to the Committee on Finance.

S. 2471. A bill to suspend for 3 years the duty on methoxyfenozide; to the Committee on Finance.

DUTY SUSPENSION BILLS

● Mr. SPECTER. Mr. President, I have sought recognition today to introduce five bills that will suspend import tariffs for three years on five chemicals used in the manufacturing of crop protection agents, Triazamate, Dichlorotoluene, Aminomethylpentyne, Fenbuconazole, and Methoxyfenozide.

These chemicals are imported by Rohm and Haas Company, a multinational manufacturer of specialty chemicals headquartered in Philadelphia, Pennsylvania. Tariffs on these products are not needed to protect American industry since these chemicals are not manufactured in the United States. Moreover, these chemicals have no other commercial end uses other than in the manufacture of pesticides used in agricultural applications. The revenue which would be forgone as a result of the proposed suspension of duty on these chemicals is minimal and has been estimated at less than $227,000 per chemical over the entire period of the suspension.

These end products, used on farms around the globe, are considered important tools in the advancement of agriculture. They protect crops such as fruits, nuts, vegetables, grain and cotton, against fungal infections, weeds, agricultural mites, and insects. By providing adequate protection for these crops, farmers are able to market healthy produce and grains, while commanding the best prices for their goods.

Established over 90 years ago, Rohm and Haas Company has grown to become one of the world's largest manufacturers of specialty chemicals. With 21,000 employees worldwide, the Company continues to maintain a significant presence throughout Pennsylvania, with research facilities in Newtown, Reading, and Spring House. Additionally, Rohm and Haas Company provides grants which support many community organizations active in the delivery of health and human services, education, and civic and community improvement.

In consideration of the positive impact Rohm and Haas Company has on the global and local communities, I urge my colleagues to support these bills which will suspend the duties on the import of these chemicals.●

By Mr. GRASSLEY:

S. 2473. A bill to strengthen and enhance the role of community antidrug coalitions by providing for the establishment of a National Community Antidrug Coalition Institute; to the Committee on the Judiciary.

LEGISLATION ESTABLISHING THE NATIONAL COMMUNITY COALITION INSTITUTE

Mr. GRASSLEY. Mr. President, today, I am introducing legislation that would give support to community antidrug coalitions nation-wide. The National Community Coalition Institute would strengthen and enhance the role of community coalitions, to reduce and prevent drug use in communities.

More specifically, one of the problems we have found in implementing the Drug Free Communities Program has been the inexperience of a lot of the communities, particularly smaller and rural ones in knowing how to evaluate their efforts; get information on best practices from other, successful coalitions, and on how to fill out grant applications. The National Community Coalition Institute would improve the effectiveness of community coalitions by providing state-of-the-art and widely available education, training, and technical assistance for coalition leaders and community teams. The National Community Coalition Institute would ensure that communities nationwide are adequately prepared to undertake the important work of building drug free communities.

Ultimately, the fight against drugs cannot be successful if it does not start in our own backyards. I invite all of my colleagues to join me in supporting this effort.

By Ms. SNOWE (for herself and Mr. SESSIONS):

S. 2474. A bill to amend title 10, United States Code, to improve the achievement of cost-effectiveness results from the decisionmaking on selections between public workforces and private workforces for the performance of a Department of Defense function; to the Committee on Armed Services.

THE DOD COST MANAGEMENT AND ACCOUNTABILITY ACT OF 2000

Ms. SNOWE. Mr. President, I rise today with my colleague from Alabama, Senator SESSIONS, to introduce legislation that will improve Department of Defense business practices as well as assist the DoD in its ability to estimate cost savings, a process that has significant impact in the DoD's budget process. This legislation will also result in improved readiness by adding a more realistic approach to the DoD's cost estimating process by eliminating the unknowns that the DoD faces in projecting its budget.

Today the Department of Defense is using arbitrary cost saving objectives of up to $11.2 billion in its budget for Fiscal Years 2001 to 2005. These cost savings are projected efficiencies expected to be realized through processes such as outsourcing and the OMB Circular A–76 process. Unfortunately, both the Government Accounting Office and the Naval Audit Service have published reports stating that these savings are inflated and overly optimistic.

The greatest cause of concern however, is the self-inflicting damage caused by these overestimated savings. Once the individual services within the Department of Defense establish these arbitrary savings goals, they reduce the future operating budget estimates to take into account the estimated savings. But, when these predicted savings are not achieved, it is the readiness accounts and modernization programs that end up paying the price.

None of us would run our personal home finances in such a manner, and no business could proceed using such an accounting method. So that is what Senator SESSIONS, my colleagues on the Armed Services Committee, and I want to address in this legislation. We want to establish better business practices, so that DoD is not setting itself up for failure. DoD needs to take a more realistic approach in the way it estimates projected savings and how it establishes performance standards to measure the impact of workforce

changes. The DoD and the American taxpayer need to understand the potential impact to the readiness of our armed forces.

This legislation has four basic provisions that will provide improved business practices.

First, this legislation requires the Department of Defense to establish a system to track the costs and savings incurred through managed competitions, efficient reorganizations, and the streamlining of other functions currently being performed by the government through the A–76 process or other re-engineering of a federal activity.

The data collected through the establishment of this system will serve two purposes. It will be compiled into a report the Department of Defense is required to submit to Congress each year, so that Congress will have the information necessary to provide oversight of the A–76 process and other cost saving reorganizing process. The data will also be used to establish a metric of current performance and current costs prior to outsourcing, to serve as a standard for future performance and future cost comparisons—so that the leaders within the Department of Defense will be able to validate the actual savings achieved and evaluate the maintenance of performance standards.

Second, this legislation requires that the cost and savings incurred through out-sourcing, strategic sourcing, or reorganizing each position currently staffed by federal personnel, be projected over the Future Years Defense Program. This requirement will improve savings estimates by including both the short and long term costs associated with outsourcing, or contracting out a function.

The third provision of this legislation requires the Secretary of Defense to certify that the function analysis and decision to outsource, strategically source, or to maintain the current federal force was not based on unfair personnel constraints that may prevent the current federal organization from operating efficiently. This will ensure that our federal workers are provided a fair chance in any process and will provide the Department of Defense the most efficient work force for the actual task at hand.

As part of the A–76 process, the Department of Defense is required to conduct an evaluation of the impact on local economies and communities if the decision is made to convert functions currently being performed by government workers to the private sector. The fourth provision of this legislation requires the Department of Defense to submit a statement of the potential economic impact on each affected local community. This notification will provide Congress and our constituents the opportunity to better understand these impacts.

Mr. President, in the short term, this legislation will require significant changes in the way the Department of Defense conducts its processes. But in the long term this legislation will yield significant benefit. These four provisions are based on the recommendations of experts in the U.S. General Accounting Office and the Naval Audit Service. By enforcing better business practices—which is what this legislation effectively does—the long term effects will benefit the Department of Defense by improving the accuracy of cost and savings estimates, stabilizing the budget, and protecting modernization programs.

Additionally, the benefits will extend to the current federal workforce, who will be guaranteed the opportunity to compete on an equal basis, and the local communities surrounding these agencies will be able to better understand the impact of any decisions that are made.

Mr. President, I firmly believe that this legislation supports the best interests of the Department of Defense and the federal work force. I urge my colleagues to review this legislation—and I am confident that they will see it's merits and join me and support this bill.

ADDITIONAL COSPONSORS

S. 514

At the request of Mr. COCHRAN, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 514, a bill to improve the National Writing Project.

S. 866

At the request of Mr. CONRAD, the name of the Senator from Nebraska (Mr. KERREY) was added as a cosponsor of S. 866, a bill to direct the Secretary of Health and Human Services to revise existing regulations concerning the conditions of participation for hospitals and ambulatory surgical centers under the medicare program relating to certified registered nurse anesthetists' services to make the regulations consistent with State supervision requirements.

S. 890

At the request of Mr. WELLSTONE, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 890, a bill to facilitate the naturalization of aliens who served with special guerrilla units or irregular forces in Laos.

S. 934

At the request of Mr. LEAHY, the names of the Senator from New York (Mr. SCHUMER) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 934, a bill to enhance rights and protections for victims of crime.

S. 1277

At the request of Mr. GRASSLEY, the name of the Senator from Rhode Island (Mr. L. CHAFEE) was added as a cosponsor of S. 1277, a bill to amend title XIX of the Social Security Act to establish a new prospective payment system for Federally-qualified health centers and rural health clinics.

S. 1361

At the request of Mr. STEVENS, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1361, a bill to amend the Earthquake Hazards Reduction Act of 1977 to provide for an expanded Federal program of hazard mitigation, relief, and insurance against the risk of catastrophic natural disasters, such as hurricanes, earthquakes, and volcanic eruptions, and for other purposes.

S. 1369

At the request of Mr. JEFFORDS, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 1369, a bill to enhance the benefits of the national electric system by encouraging and supporting State programs for renewable energy sources, universal electric service, affordable electric service, and energy conservation and efficiency, and for other purposes.

S. 1571

At the request of Mr. JEFFORDS, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 1571, a bill to amend title 38, United States Code, to provide for permanent eligibility of former members of the Selected Reserve for veterans housing loans.

S. 1594

At the request of Mr. KERRY, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1594, a bill to amend the Small Business Act and Small Business Investment Act of 1958.

S. 1608

At the request of Mr. CRAIG, the name of the Senator from Texas (Mr. GRAMM) was added as a cosponsor of S. 1608, a bill to provide annual payments to the States and counties from National Forest System lands managed by the Forest Service, and the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands managed predominately by the Bureau of Land Management, for use by the counties in which the lands are situated for the benefit of the public schools, roads, emergency and other public purposes; to encourage and provide new mechanisms for cooperation between counties and the Forest Service and the Bureau of Land Management to make necessary investments in Federal lands, and reaffirm the positive connection between Federal Lands counties and Federal Lands; and for other purposes.

S. 1646

At the request of Mrs. LINCOLN, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 1646, a bill to amend titles XIX and XXI of the Social Security Act to improve the coverage of needy children under the State Children's Health Insurance Program (SCHIP) and the Medicaid Program.

S. 1846

At the request of Mrs. BOXER, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 1846, a bill to redesignate

the Federal building located at 10301 South Compton Avenue, in Los Angeles, California, and known as the Watts Finance Office, as the ''Augustus F. Hawkins Post Office Building.''

S. 1847

At the request of Mrs. BOXER, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 1847, a bill to redesignate the Federal building located at 701 South Santa Fe Avenue in Compton, California, and known as the Compton Main Post Office, as the ''Mervyn Malcolm Dymally Post Office Building.''

S. 1902

At the request of Mr. HATCH, his name was added as a cosponsor of S. 1902, a bill to require disclosure under the Freedom of Information Act regarding certain persons and records of the Japanese Imperial Army in a manner that does not impair any investigation or prosecution conducted by the Department of Justice or certain intelligence matters, and for other purposes.

S. 1921

At the request of Mr. CAMPBELL, the name of the Senator from Washington (Mr. GORTON) was added as a cosponsor of S. 1921, a bill to authorize the placement within the site of the Vietnam Veterans Memorial of a plaque to honor Vietnam veterans who died after their service in the Vietnam war, but as a direct result of that service.

S. 1941

At the request of Mr. DODD, the name of the Senator from Washington (Mr. GORTON) was added as a cosponsor of S. 1941, a bill to amend the Federal Fire Prevention and Control Act of 1974 to authorize the Director of the Federal Emergency Management Agency to provide assistance to fire departments and fire prevention organizations for the purpose of protecting the public and firefighting personnel against fire and fire-related hazards.

S. 2018

At the request of Mrs. HUTCHISON, the names of the Senator from West Virginia (Mr. ROCKEFELLER) and the Senator from Hawaii (Mr. AKAKA) were added as cosponsors of S. 2018, a bill to amend title XVIII of the Social Security Act to revise the update factor used in making payments to PPS hospitals under the medicare program.

S. 2044

At the request of Mr. CAMPBELL, the names of the Senator from Massachusetts (Mr. KERRY), and the Senator from Minnesota (Mr. WELLSTONE) were added as cosponsors of S. 2044, a bill to allow postal patrons to contribute to funding for domestic violence programs through the voluntary purchase of specially issued postage stamps.

S. 2060

At the request of Mrs. FEINSTEIN, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 2060, a bill to authorize the President to award a gold medal on behalf of the Congress to Charles M. Schulz in recognition of his lasting artistic contributions to the Nation and the world, and for other purposes.

S. 2061

At the request of Mr. BIDEN, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 2061, a bill to establish a crime prevention and computer education initiative.

S. 2087

At the request of Mr. WARNER, the names of the Senator from Florida (Mr. MACK) and the Senator from Delaware (Mr. ROTH) were added as cosponsors of S. 2087, a bill to amend title 10, United States Code, to improve access to benefits under the TRICARE program; to extend and improve certain demonstration programs under the Defense Health Program; and for other purposes.

S. 2218

At the request of Mr. CLELAND, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 2218, a bill to amend title 5, United States Code, to provide for the establishment of a program under which long-term care insurance is made available to Federal employees and annuitants and members of the uniformed services, and for other purposes.

S. 2225

At the request of Mr. GRASSLEY, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 2225, a bill to amend the Internal Revenue Code of 1986 to allow individuals a deduction for qualified long-term care insurance premiums, use of such insurance under cafeteria plans and flexible spending arrangements, and a credit for individuals with long-term care needs.

S. 2255

At the request of Mr. MCCAIN, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S. 2255, a bill to amend the Internet Tax Freedom Act to extend the moratorium through calendar year 2006.

S. 2308

At the request of Mr. MOYNIHAN, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 2308, a bill to amend title XIX of the Social Security Act to assure preservation of safety net hospitals through maintenance of the Medicaid disproportionate share hospital program.

S. 2316

At the request of Mr. GRAHAM, the names of the Senator from Florida (Mr. MACK) and the Senator from Louisiana (Mr. BREAUX) were added as cosponsors of S. 2316, a bill to authorize the lease of real and personal property under the jurisdiction of the National Aeronautics and Space Administration.

S. 2344

At the request of Mr. BROWNBACK, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 2344, a bill to amend the Internal Revenue Code of 1986 to treat payments under the Conservation Reserve Program as rentals from real estate.

S. 2357

At the request of Mr. REID, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 2357, a bill to amend title 38, United States Code, to permit retired members of the Armed Forces who have a service-connected disability to receive military retired pay concurrently with veterans' disability compensation.

S. 2365

At the request of Ms. COLLINS, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 2365, a bill to amend title XVIII of the Social Security Act to eliminate the 15 percent reduction in payment rates under the prospective payment system for home health services.

S. 2386

At the request of Mrs. FEINSTEIN, the names of the Senator from Virginia (Mr. WARNER) and the Senator from Montana (Mr. BURNS) were added as cosponsors of S. 2386, a bill to extend the Stamp Out Breast Cancer Act.

S. 2394

At the request of Mr. MOYNIHAN, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 2394, a bill to amend title XVIII of the Social Security Act to stabilize indirect graduate medical education payments.

S. 2417

At the request of Mr. CRAPO, the names of the Senator from Utah (Mr. HATCH), the Senator from Idaho (Mr. CRAIG), the Senator from Alaska (Mr. MURKOWSKI), and the Senator from Kentucky (Mr. BUNNING) were added as cosponsors of S. 2417, a bill to amend the Federal Water Pollution Control Act to increase funding for State nonpoint source pollution control programs, and for other purposes.

S. 2443

At the request of Mr. DURBIN, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 2443, a bill to increase immunization funding and provide for immunization infrastructure and delivery activities.

S. 2459

At the request of Mr. COVERDELL, the names of the Senator from Colorado (Mr. ALLARD), the Senator from Oklahoma (Mr. NICKLES), the Senator from Wyoming (Mr. THOMAS), and the Senator from Oregon (Mr. SMITH) were added as cosponsors of S. 2459, a bill to provide for the award of a gold medal on behalf of the Congress to former President Ronald Reagan and his wife Nancy Reagan in recognition of their service to the Nation.

S. CON. RES. 60

At the request of Mr. FEINGOLD, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. Con. Res. 60, a concurrent

resolution expressing the sense of Congress that a commemorative postage stamp should be issued in honor of the U.S.S. *Wisconsin* and all those who served aboard her.

S. CON. RES. 107

At the request of Mr. AKAKA, the names of the Senator from Wisconsin (Mr. FEINGOLD) and the Senator from North Dakota (Mr. DORGAN) were added as cosponsors of S. Con. Res. 107, a concurrent resolution expressing the sense of the Congress concerning support for the Sixth Nonproliferation Treaty Review Conference.

S. RES. 230

At the request of Mr. ENZI, the name of the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. Res. 230, A resolution expressing the sense of the Senate with respect to government discrimination in Germany based on religion or belief.

S. RES. 247

At the request of Mr. CAMPBELL, the names of the Senator from California (Mrs. BOXER), the Senator from Oregon (Mr. SMITH), and the Senator from Virginia (Mr. ROBB) were added as cosponsors of S. Res. 247, a resolution commemorating and acknowledging the dedication and sacrifice made by the men and women who have lost their lives while serving as law enforcement officers.

S. RES. 248

At the request of Mr. ROBB, the name of the Senator from Colorado (Mr. CAMPBELL) was added as a cosponsor of S. Res. 248, a resolution to designate the week of May 7, 2000, as ''National Correctional Officers and Employees Week.''

SENATE RESOLUTION 297—AUTHORIZING TESTIMONY AND LEGAL REPRESENTATION IN MARTIN A. LOPOW V. WILLIAM J. HENDERSON

Mr. LOTT (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 297

Whereas, in the case of Martin A. Lopow v. William J. Henderson, Case No. 3:98CV1329–SRU, pending in the United States District Court for the District of Connecticut, a subpoena for the production of documents has been issued to Laura Cahill, an employee in the office of Senator Joseph I. Lieberman;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent employees of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate: Now, therefore, be it

Resolved, That Laura Cahill is authorized to testify in the case of Martin A. Lopow v. William J. Henderson, except concerning matters for which a privilege should be asserted.

SEC. 2. The Senate Legal Counsel is authorized to represent Laura Cahill in connection with the testimony authorized in section one of this resolution.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. KYL. Mr. President, I ask unanimous consent that the Subcommittee on Readiness and Management Support of the Committee on Armed Services be authorized to meet during the session of the Senate on Wednesday, April 26, 2000 at 10 a.m., in open session to receive testimony on acquisition reform efforts, the acquisition workforce, logistics contracting and inventory management practices, and the Defense industrial base in review of the Defense authorization request for fiscal year 2001 and the future years Defense program.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. KYL. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet for a hearing on Medical Records Privacy during the session of the Senate on Wednesday, April 26, 2000, at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. KYL. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet during the session of the Senate on Wednesday, April 26, 2000 at 9:30 a.m. to conduct a business meeting on pending legislation (TBA), followed immediately by a hearing on draft legislation to reauthorize the Indian Sections of the Elementary and Secondary Education Act. The hearing will be held in the committee room, 485 Russell Senate Office Building.

Those wishing additional information may contact the committee at (202) 224–2251.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. KYL. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Wednesday, April 26, 2000, at 9:30 a.m., to receive testimony on citizen participation in the political process.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SECURITIES

Mr. KYL. Mr. President, I ask unanimous consent that the Subcommittee on Securities of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, April 26, 2000, to conduct a hearing on ''Competition and Transparency in the Financial Marketplace of the Future.''

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INTERNATIONAL RELATIONS

Mr. KYL. Mr. President, I ask unanimous consent that the Subcommittee on International Relations be authorized to meet during the session of the Senate on Wednesday, April 26, 2000, at 3 p.m. to hold a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FORESTS AND PUBLIC LANDS

Mr. KYL. Mr. President, I ask unanimous consent that the Subcommittee on Forests and Public Lands of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Wednesday, April 26, at 2:30 p.m. to conduct a hearing. The subcommittee will receive testimony on S. 2273, a bill to establish the Black Rocks Desert-High Rock Canyon Emigrant Trails National Conservation Area; and S. 2048, a bill to establish the San Rafael Western Legacy District in the State of Utah, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. KYL. Mr. President, I ask unanimous consent that Nick Dickinson of my staff be granted floor privileges for the duration of the consideration of S.J. Res. 3.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZING TESTIMONY AND LEGAL REPRESENTATION

Mr. MACK. Mr. President, I ask unanimous consent that the Senate now proceed to the immediate consideration of S. Res. 297, submitted earlier by Senator LOTT and Senator DASCHLE.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution, (S. Res. 297) to authorize testimony and legal representation in Martin A. Lopow v. William J. Henderson.

There being no objection, the Senate proceeded to consider the resolution.

Mr. LOTT. Mr. President, this resolution concerns a subpoena in a lawsuit brought by a resident of Connecticut who has sued the Postal Service alleging discrimination in the termination of his employment with the Postal Service. The plaintiff seeks to subpoena from Senator JOSEPH I. LIEBERMAN's deputy state director for constitutent services copies of casework files concerning another constitutent of the Senator's who is not a party to this lawsuit.

Senator LIEBERMAN's deputy state director for constitutent services informed the plaintiff that, out of concern for protecting the confidentiality of communications with the Senator's constituents, the Senator's policy does not permit sharing constituent files with third parties without the constituents' consent, which has not been given in this case. The plaintiff has also been advised that a search of the Senator's achieved constituent files turned up no file like that sought.

Nevertheless, the plaintiff has moved to compel the production of the document he is seeking. This resolution would permit the Senate Legal Counsel to represent the Senator's deputy state director for constituent services to oppose the motion to compel, and permit the submission of an affidavit describing the Senator's constituent confidentiality policy and the search for records in this case.

Mr. MACK. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and a statement of explanation appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 297) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 297

Whereas, in the case of Martin A. Lopow v. William J. Henderson, Case No. 3:98CV1329–SRU, pending in the United States District Court for the District of Connecticut, a subpoena for the production of documents has been issued to Laura Cahill, an employee in the office of Senator Joseph I. Lieberman;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent employees of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate: Now, therefore, be it

Resolved, That Laura Cahill is authorized to testify in the case of Martin A. Lopow v. William J. Henderson, except concerning matters for which a privilege should be asserted.

SEC. 2. The Senate Legal Counsel is authorized to represent Laura Cahill in connection with the testimony authorized in section one of this resolution.

ORDERS FOR THURSDAY, APRIL 27, 2000

Mr. MACK. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 9:30 a.m. on Thursday, April 27. I further ask consent that on Thursday, immediately following the prayer, the Journal of the proceedings be approved to date, the morning hour be deemed to have expired, the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period of morning business until 12 noon with Senators speaking for up to 5 minutes each, with the following exceptions: Senator LOTT, or his designee, from 9:30 a.m. to 10 a.m.; Senator DURBIN, or his designee, from 10 a.m. to 10:30 a.m.; Senator HUTCHISON of Texas for up to 30 minutes; Senator DASCHLE, or his designee, for up to 45 minutes; Senator THOMAS, or his designee, for up to 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MACK. Mr. President, I further ask unanimous consent that at 12 noon the Senate proceed to the cloture vote relative to the marriage tax penalty bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. MACK. Mr. President, tomorrow morning, following the period of morning business, the Senate will conduct a cloture vote relative to the marriage tax penalty bill. If cloture is invoked, the Senate will remain on the bill under the provisions of rule XXII. Senators are reminded that second-degree amendments must be filed at the desk by 11 a.m. Thursday, under rule XXII. However, if cloture is not invoked, the Senate will resume debate on the motion to proceed to S.J. Res. 3, proposing an amendment to the Constitution to protect the rights of victims. It is hoped that the Senate will be able to proceed to that bill at a reasonable hour tomorrow.

As a reminder, the Senate did receive the veto message with regard to the nuclear waste bill during today's session. By previous consent, debate on the veto override will begin on Tuesday, May 2, at 9:30 a.m., with a vote to occur at 3:15 that afternoon.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. MACK. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 5:40 p.m., adjourned until Thursday, April 27, 2000, at 9:30 a.m.